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Economics of Labor
and
Industrial Relations

Economics of Labor and Industrial Relations

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AND

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The Blakiston Company—Philadelphia Toronto
1950

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PRINTED IN THE UNITED STATES OF AMERICA
BY THE MAPLE PRESS CO., YORK, PA.

To

SUMNER H. SLICHTER

Preface

This book aims to integrate economic analysis and industrial relations problems for both the beginning and the advanced student. Parts I, II, and III are written especially for the student of labor who has had little, if any, training in economic theory. Part IV brings the tools of economic analysis to bear on a variety of basic industrial relations problems. This section will be most useful to the more advanced student, but every effort has been made to develop the discussion so that less advanced students may comprehend it without undue difficulty. Parts V and VI, dealing with social security and collective bargaining legislation, are suitable for both beginning and advanced students.

This text was designed for both one-semester and full-year courses. Parts I, II, and III, and some of the chapters included in Parts V and VI, contain the material which one of the authors has utilized for an introductory semester course in labor problems, and the complete book follows this author's outline for a full year course. Part IV, containing 13 chapters, is suitable, both in length and in treatment of the subject matter, for use in an advanced semester course in the economic theory of labor.

Many persons have generously aided in the preparation of this book. Professor Fritz Machlup read most of the chapters and made many valuable suggestions for improving the book. Professor Eveline M. Burns not only lent the page proofs of her excellent text, *The American Social Security System*, but also read the chapters dealing with social security and suggested numerous improvements. Mrs. Gordon F. Bloom and Miss Ruth Kurtz typed the manuscript, and, in addition, Mrs. Bloom assisted in the preparation of the index and read and criticized the manuscript.

The authors are grateful to the following publishers and journals for permission to quote copyright material: McGraw-Hill Book Co., University of Chicago Press, Brookings Institution, American Economic Association, *Antioch Review*, *Labor and Nation*, Stanford University Press, *Southern Economic Journal*, American Management Association, Harper and Brothers, Remsen Press, Houghton Mifflin Co., *The Atlantic Monthly*, Twentieth Century Fund, Russell Sage Foundation, W. W. Norton and Co., *Quarterly Journal of Economics*, The Macmillan Company, *Harvard Business Review*, and the Philosophical Library.

Mr. Bloom had primary responsibility for the preparation of Chapters 1, 10–22, and 31; Mr. Northrup for Chapters 2–9, 23–30, and 32–34.

Each author, however, read and criticized the drafts of the other, and the book, in its final form, represents a joint effort for which joint responsibility is shared. The book was completed prior to October 1, 1949, when Mr. Northrup joined the staff of the National Industrial Conference Board.

The dedication is a small mark of gratitude to the scholar who has led the way to the integration of economic analysis and labor problems, and who, as teacher and writer, has served as an inspiration for a generation of labor economists.

G. F. B.
H. R. N.

Contents

PREFACE vii

PART I

INTRODUCTION

1. ORIENTATION 3

PART II

LABOR HISTORY AND LABOR STATISTICS

2. HISTORY OF THE AMERICAN LABOR MOVEMENT 17
3. BASIC LABOR STATISTICS 57

PART III

UNIONS AND COLLECTIVE BARGAINING

4. UNION STRUCTURE AND GOVERNMENT 73
5. MANAGEMENT OF INDUSTRIAL RELATIONS 119
6. INDUSTRIAL JURISPRUDENCE 141
7. WAGE DETERMINATION 179
8. COLLECTIVE BARGAINING—SCOPE AND BREADTH 205
9. UNION INSTITUTIONALISM AND THE SCOPE OF UNION ACTIVITY 221

PART IV

ECONOMIC THEORY OF LABOR

10. THE SUPPLY OF LABOR 239
11. THE DEMAND FOR LABOR 273
12. UNION RULES AND WAGE RELATIONSHIPS 299
13. THE THEORY OF LABOR EXPLOITATION AND THE MINIMUM WAGE 317
14. UNEMPLOYMENT: DEFINITION AND CLASSIFICATION . . . 349
15. WAGE CHANGES AND EMPLOYMENT 369

16. WAGE POLICY IN BUSINESS CYCLE THEORY 391
17. UNIONS AND THE BUSINESS CYCLE 413
18. UNIONS AND TECHNOLOGICAL INNOVATION 435
19. WAGE RATES AND MECHANIZATION 459
20. UNIONS AND INDUSTRIAL EFFICIENCY 479
21. SHARING INCREASED PRODUCTIVITY 491
22. THE ECONOMICS OF THE SHORTER WORKWEEK 507

PART V

MINIMUM LABOR STANDARDS AND SOCIAL SECURITY

23. WAGE, HOUR, AND RELATED LEGISLATION 533
24. SOCIAL SECURITY: THE OLD AGE AND SURVIVORS PROGRAM 547
25. UNEMPLOYMENT COMPENSATION 567
26. WORKMEN'S COMPENSATION, DISABILITY, AND SICKNESS LEGISLATION 579

PART VI

LABOR RELATIONS AND PUBLIC POLICY

27. LABOR AND THE COURTS 597
28. RAILWAY LABOR LEGISLATION 615
29. ADJUSTMENT MACHINERY—FEDERAL, STATE, LOCAL, AND EMERGENCY 631
30. THE NATIONAL LABOR RELATIONS (WAGNER) ACT 657
31. THE TAFT-HARTLEY ACT AND LABOR'S REACTION 679
32. STATE LABOR RELATIONS LEGISLATION 701
33. GOVERNMENT AS EMPLOYER 713
34. THE FUTURE OF NATIONAL LABOR POLICY 723

INDEX OF AUTHORS 731
SUBJECT INDEX 735

Part I

INTRODUCTION

1

Orientation

Pick up your daily newspaper and examine the headlines which make the news. Inflation, strikes, wage demands, unemployment—these are vital issues in the public mind today. And all of these relate in some measure to the functioning of the labor market. Today, labor problems are everybody's problems. They touch every man, woman, and child—every consumer, employer, and employee.

Now, more than ever before, labor issues are the center of public attention, and now, too, more than ever, they are the focus of interest and study for economists and other social scientists. Consider the ramifications of but one of the numerous labor problems to be discussed in this text: unemployment. Economics, psychology, sociology, law, political science—all these social disciplines must, of necessity, contribute to any thorough, worthwhile discussion of unemployment. Business cycle theory and distribution theory cast light upon the causes of unemployment. Determination of possible means of alleviating unemployment necessitates study of fiscal policy and money and banking. It is the job of the psychologist and the sociologist to discover the effects of unemployment upon the displaced worker and his community. And finally, the tasks of drafting and enacting legislation to aid the unemployed fall to the lot of the lawyer and the statesman.

It is not surprising that labor problems should thus constitute a center of gravity for the various social studies. Labor problems are problems of the worker and his employment. Since, in modern industrial society, the average gainfully employed individual spends more of his waking hours on the job than in any other activity, it is only natural that the problems arising out of his employment should be of primary importance to him and to the society which reflects his outlook.

The Economist and Labor Problems

What precisely do we mean by a labor problem? Almost every important social question might be characterized as a labor problem, in the sense that it concerns gainful human activity; but it is obvious that such a definition is neither useful nor in conformance with popular understanding. If a narrower definition is attempted, its content will vary depending upon the objective in view and the outlook of the particular observer.

For example, a political scientist, surveying the effectiveness of various pressure groups, might conclude that the lobbying methods of the railroad brotherhoods constitute a labor problem. An economist, on the other hand, would probably regard the underlying industrial conditions, wage levels, and union-management relations as constituting the labor problem, while viewing the lobbying activity as a mere political manifestation of these more fundamental conditions.

This illustration suggests one basis on which the economist achieves a narrowing of the field of study: the labor economist, like any economist, is primarily interested in *economic* problems and *economic* activity. He does not shut his eyes to the sociological and psychological implications of a particular situation, but the need for thorough consideration of all the economic issues raised by a labor problem compels him to accord to other aspects only secondary attention.

Such a tendency toward compartmentalization of knowledge in research in the social sciences can have unfortunate consequences. The actual flow of events is not neatly divided into economic problems, sociological problems, and so forth. On the contrary, each situation represents a complex intermingling of social forces. Piecemeal study of one phase of a problem to the exclusion of all others not only is less fruitful, but also may, in some instances, lead to erroneous conclusions. The solution to the proper division of labor among social scientists has not yet been found. On the whole, the labor economist, in order to achieve a coherent body of principles, has found it necessary to confine his study primarily to the *economic* aspects of those problems which arise out of the gainful pursuits of labor.

This delimitation of the field of inquiry characterizes most of the discussion of labor problems contained in this volume. In following the discussion, however, the reader should be alert to recognize other possible facets of a particular problem, and should, when necessary, supplement the economic analysis presented here with findings of research workers in allied fields. While space does not permit exploration in this chapter of all the relationships between labor and the social sciences, the following sections are intended to suggest at least some of the psychological, sociological, and legal considerations raised by labor problems.

PSYCHOLOGICAL ASPECTS OF LABOR PROBLEMS

Labor problems are problems of human beings—of their individual inner needs and motivations, of their interactions with other human beings. Labor problems are therefore basically psychological problems. Most of the difficulties between management and labor can ultimately be explained in terms of the individual's desires for self-expression, prestige, security, and self-betterment. In a capitalistic economy, these are the dominant human motives which must be reasonably satisfied if labor and management are to be able to live together in peace. Until comparatively recently, American business ignored the first three motives enumerated and erroneously assumed that if the desire for self-betterment were satisfied, workers would be content and docile even though they were denied any voice in determining the conditions of employment. American employers therefore sought to erect a bulwark against unionism in the form of high wages, short hours, and good conditions of work. In pursuing this policy, employers misjudged the basic personality of their workers and, as a consequence, unions were able to gain a foothold even in the most paternalistic establishments.

What did unions have to offer? In many plants in which unions were successful in organizing the employees, wages were already higher than in union shops in the industry. But the union leader could promise the worker what the employer had overlooked. The worker wanted more than dollars in his pay envelope; he wanted security and an opportunity to be treated like an individual. He did not want to be herded blindly like a well-fed sheep. He wanted a voice in matters that he conceived to be of vital importance to performance of his daily work. If the line were speeded up, he wanted to know why and to be able to voice his objection without fear of being fired.

Thus—oddly enough—in unionism, a group movement, the worker was able to find a medium through which to assert his individual personality. Unionism has given new dignity and importance to the status of the individual worker. For example, in most organized plants, his individual grievances are now promptly and fairly handled by bipartisan grievance machinery in which management and union are equally represented. Personnel administration, catering to the needs of the individual worker, has become an increasingly important aspect of efficient plant management. Moreover, unionism itself, as a functioning institution, has afforded many opportunities for workers to develop, and to assume positions of leadership. A worker may become a shop steward, or business agent, or member of a grievance committee, or a union officer. These positions have filled a need for constructive self-expression by the individual worker which modern industry with its emphasis upon machine operation had failed to satisfy. Thus unionism has performed a valuable service in promoting the psychological well-being of the worker.

Recognition of the psychological needs of the worker affords a basis for understanding many of the clashes which flare up between employees and management, even in industries having satisfactory collective bargaining relations. Take, for example, the case of the so-called "wildcat" strike in which some employees will walk off the job without the sanction, and frequently against the express orders, of the union officials. What causes these walkouts? Obviously, a variety of factors may be responsible, depending upon the particular situation, but, in many cases, a common psychological cause may be found. Much of the work that the average employee performs in a modern industrial plant is dull, routine, and psychologically unrewarding. Monotony produces fatigue and tension. Management has recognized that this detracts from productive efficiency, and has achieved surprising success in some plants in reducing such fatigue and tension by use of short rest periods interspersed throughout the working day. Often, however, a spontaneous wildcat strike may be the outlet which employees unconsciously use to reduce nervous tension.

As long as labor-management differences are, at least in part, psychological in origin, strikes, slowdowns, and other evidences of labor unrest cannot be cured by legislative fiat. If strikes are prohibited by law in certain industries, employees will attempt to manifest their disagreement with management policies in some other equally effective fashion. Peaceful industrial relations depend upon reasonable restraints by organized labor on the exercise of the right to strike. But peaceful industrial relations also requires management to provide a friendly working environment in which the individual employee will be afforded opportunity for self-expression and participation in determination of his working conditions.

Sociological Aspects of Labor Problems

Labor problems are also sociological problems. They are problems concerning the relationship of various groups in the community and their reaction to changes in the economic and social environment. Most American families are dependent upon wage or salary earners for their incomes. Consequently, the stability and integration of the typical American community depends to a large extent upon the welfare of its workers.

Nowhere is this interdependence more graphically demonstrated than in the study of the repercussions of technological unemployment upon the community. Consider, for example, the effect of the introduction of the continuous automatic strip mills in the steel industry. These automatic mills constituted the greatest labor-saving development of the decade of the thirties. So great was the labor-saving capacity of these new mills that it has been estimated that 126 men in one automatic mill could produce the same tonnage as 4512 men operating 96 sheet mills of the conventional type.[1]

Although the labor-saving effect of these new mills has been obscured by the high level of employment which prevailed during the decade of the forties, their introduction during the less prosperous years of the preceding decade had profound economic and sociological repercussions. So great was the displacement of labor that thriving steel towns became ghost towns overnight. Employees of the old hand mills were thrown out of work, young people were unable to find jobs, shopkeepers lost business, delinquency increased. Although the economist, reasoning in terms of abstract theory, may conclude that after the displaced workers have shifted to other industries, national income and employment will be greater than before the innovation, the sociologist's job requires him to take account of the social disorganization, abandonment of homes, broken careers, and other effects on the individual and his community which occur before such a transfer has been accomplished. The difference in viewpoint, however, is one of emphasis only, and at some points the interest of the sociologist and economist will coincide. For example, the labor economist who is studying the effect of a technological innovation will be interested in the reaction of employment, costs, prices, national income, and investment. But he will also be concerned with the length of time required for the displaced worker to obtain new employment, the extent to which the worker can utilize his former skills in his new employment, and the effect of the displacement on his income. These conditions will also be of interest to the sociologist since they will bear upon the position of the worker in his community and the extent to which he will be able to maintain his former associations.

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[1] Philip Murray, *Technological Unemployment*, United Steelworkers Publication No. 3 (Pittsburgh, United Steelworkers, 1940), p. 10.

This brief discussion of the sociological aspects of labor problems cannot be brought to a close without at least observing that the American labor movement, itself, presents interesting sociological problems. American labor, like the population as a whole, is characterized by a mingling of diverse races, many of whom have transplanted from their native lands peculiar customs, prejudices, and ideas. The cohesiveness of labor unions, and the effectiveness of their action as a group, has been handicapped by the heterogeneity of races, nationalities, languages, and backgrounds which characterize their membership. For example, in the steel strike of 1919, strike literature had to be issued in seven different languages! Racial friction between Negro and white continues to be a problem in labor unions, and may become increasingly serious if large-scale introduction of the mechanical cotton picker in the South produces a mass migration of Negroes to the northern industrial centers.

Because of this heterogeneity in membership, American unions have held their organizations together only by a tenuous bond. In contrast to European unions, where workers have been unified by a common nationality, and in some cases by a common religion, American workers have been bound together primarily by a sense of mutual dependence in their struggle to obtain better terms from employers. The extent to which organized labor as a group will be able to reconcile the conflicting interests represented by various elements in its membership and maintain its cohesiveness in the face of possible large-scale unemployment constitutes one of the most important economic and sociological problems of our time.

LEGAL ASPECTS OF LABOR PROBLEMS

Labor problems must be solved within a legal framework. This framework has two principal parts: (1) the common law, composed of the law which the colonists brought to this country from England and subsequent decisions handed down by American courts; and (2) state and federal legislation. These two aspects of the legal system impinge upon employer-employee relations in all their crucial aspects.

The common law has, on the whole, been hostile to organized labor. Courts have laid primary emphasis upon preservation of competition in the labor market and protection of the rights of private property and contract. In so doing, they have set difficult obstacles in the path of workingmen seeking to organize. For example, in the first American labor case, decided in Philadelphia in 1806, a combination of cordwainers (shoemakers) who organized to obtain higher wages from their employers was held to be a criminal conspiracy. Subsequent judicial decision, however, modified this extreme position. A strike was no longer considered a criminal offense but was viewed as prima facie tortious (i.e., a civil wrong) since it was intended to inflict economic loss upon the employer. This presumption of illegality, however, could be rebutted by showing that the strike was for a justifiable end such as higher wages, shorter hours, or improved working conditions. Labor's right to strike, therefore, depended upon whether a court would consider justifiable the particular objective sought to be achieved by the strike. This doctrine still persists in our courts today. For example, a strike for a closed shop is regarded as unjustified and therefore unlawful in Massachusetts, whereas the contrary is true in New York State.

Judicial protection afforded contract rights has likewise impeded labor organization. Courts developed the doctrine that a person who was a party to a contract had a valuable property right which was entitled to protection. A court would issue an order enjoining any third party from interfering with such contract rights, and if the third party disobeyed the order—or injunction, as it was called—he could be fined or imprisoned for contempt of court. This judge-made doctrine was the source of much difficulty to labor. Anti-union employers compelled workers to sign so-called "yellow-dog" contracts, whereby the employee, as a condition of obtaining employment, promised not to become a member of a union during his period of employment. When a union business agent endeavored to persuade the employee to join the union, he was in effect inducing the employee to break his contract with the employer. The courts held that such organizing efforts were unlawful and could be prohibited by injunction. Such yellow-dog contracts remained an effective weapon in the hands of anti-union employers for many years. They were finally outlawed in 1932 when the federal Norris-LaGuardia Anti-Injunction Act made yellow-dog contracts unenforceable by injunction in federal courts.

The strength of private property rights in our legal system has been another factor which has impeded the progress of organized labor. Strikes frequently involve violence and damage to private property. Consequently, employers have been able to secure police and court protection for their property which incidentally often had the effect of breaking the strike. Frequently particular labor groups have found that because of their disregard for the rights of private property they have arrayed against them not only the courts but also the general public. For example, the sitdown strikes in 1937—in which striking workers barricaded themselves in factories and refused to leave the premises until their demands were met—evoked great alarm and opposition from the general public. Even persons ordinarily pro-labor viewed with alarm such arbitrary seizure of property belonging to others. Thus organized labor was deprived of an extremely effective labor weapon, not only by subsequent judicial decision which declared such strikes illegal, but also by the hostile public reaction deriving from a long tradition of the sanctity of private property.

Labor legislation in the United States has proceeded in a rather haphazard fashion, due to the division of powers between state and federal governments. Federal regulation exists only in fragmentary fashion because the Constitution does not specifically authorize the federal government to regulate labor and therefore federal regulation can be exercised only where labor problems impinge upon some field in which federal power is recognized—as, for example, interstate commerce. Since powers not expressly granted to the federal government are reserved to the states, the primary regulation of labor activities is generally to be found in state statutes.

Collective bargaining relations of employers and employees in industries affecting interstate commerce have been regulated by the National Labor Relations (Wagner) and Labor-Management (Taft-Hartley) acts, which will be considered in detail in subsequent chapters. Other legislation —state or federal—provides unemployment insurance, public employment exchanges, prohibition of child labor, compensation for employees injured at work, and other benefits. In the field of wages and hours, legislation has provided minimum wages and maximum hours, thus narrowing the area of conflict between employers and employee, but except during the period of World War II, government has not attempted to fix the level of wages within these limits.

The conflict between labor and capital continues, but the nature of labor's goals and the means it adopts to achieve its ends have been profoundly affected by the legal framework. For example, had it not been for the fact that the United States Supreme Court has held that peaceful picketing is a form of "speech" entitled to constitutional protection, state laws might have been passed outlawing all forms of picketing, thus again depriving labor of an extremely effective weapon in labor disputes.

This brief discussion should indicate a few of the various ways in which legal considerations impinge upon labor problems. Having considered the varied ramifications of labor problems—psychological, sociological, and legal—we are now prepared to be more specific and inquire: who is "labor" and what is a "problem"?

Who Is Labor?[2]

Labor might be broadly defined to include all persons who work for a living. Such a definition would include entrepreneurs,[3] doctors, carpenters, farmers—in short, all members of the gainfully employed except those whose income is derived solely from rents or interest. A moment's reflection, however, will indicate that this heterogeneous group has little in common with the group which figures so prominently in the headlines as labor. The men of labor are the carpenters and the garment workers, the truck drivers and the department store clerks. What is it that these men have in common, that marks them off as a class even in this democratic society where class lines are not firmly drawn?

An example will suggest the answer. John Jones is an independent grocer. He owns his own store and is self-employed. His income depends upon the margin between his sales receipts and the cost of his wares, after covering expenses of operation. Suppose competition from other grocers compels him to reduce prices so that as a consequence his income is cut in half. John Jones may now complain that his labor is not being adequately compensated; yet ordinarily this circumstance would not be considered a labor problem.

Now change the facts slightly. John Jones employs ten clerks in his store. Competition forces him to cut their wages in half. Here we have a labor problem. What is the essential difference between the two cases? The difference lies in the fact that John Jones is self-employed, while his clerks work for wages and are therefore dependent upon their employer for their livelihood. Labor problems grow out of the economic activity of that part of the working population which offers its services for hire to

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[2] A detailed examination of the composition of the labor force is contained in Chapter 3.

[3] I.e., managers of business firms.

others and receives its compensation in the form of wages or salaries.[4] Because they are dependent upon others to offer them employment, wage and salary earners are subject to the risk of unemployment. Because they are dependent upon employers for their daily income, their interests frequently clash with those of the latter class. The result is strikes, lockouts, slowdowns, and other manifestations of labor strife. Finally, because they have this common bond of dependence upon others for their employment and income, a certain feeling of solidarity tends to exist among members of this group, despite the diversity of their occupations. This sense of a common status has led many of them to join together in unions to present a common front to their employers and to the owners of the means of production.

CHARACTERISTICS OF A LABOR PROBLEM

Suppose an issue arises involving this group in the labor market. What is the ingredient which raises a given situation to the status of a "problem?" Whether or not a given situation will be classed as a problem depends in large measure upon the outlook and bias of the individual. For example, labor problems to the average employee are synonymous with strikes, lockouts, inadequate wages, and unemployment. To the employer, the term calls to mind rising labor costs, diminishing man-hour output, stoppages, and interference with managerial prerogatives. Consumers have still a different viewpoint—to them, the labor problem is largely presented in terms of shortages due to work stoppages, high prices occasioned by high wage costs and low efficiency, and inadequate utilization of available labor. Some conditions such as chronic unemployment will be recognized by all groups as a problem requiring solution. As regards other situations, however, such as the stretchout in the textile industry, there will be less unanimity. Employees will denounce it as a health hazard; employers will support it as a competitive necessity; and consumers' views will differ depending upon whether they give greater weight to lower prices or to the possible physical impairment of workers.

In the last analysis, whether or not a particular situation will be recognized as a problem area will depend upon society's judgment that the dangers inherent in the situation outweigh its possible benefits to the community. This judgment, representing as it does the joint appraisal of all groups in the community, will shift with changing social mores. In colonial times, the question of the length of the working day was not a problem. Custom decreed a working day from dawn till dusk and any increase in idle time was viewed as an invitation to the devil! Yet today, the shorter hour movement is one of our most pressing problems and presents a continuing source of friction in employer-employee relations. A similar ripening of public recognition has characterized such problems as child labor, industrial accidents, and technological displacement of labor.

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[4] In 1940, this group represented three out of every four gainfully employed persons.

There is one further characteristic of a labor problem, as we shall use the term, which requires attention. Labor problems, as a phenomenon of American industrial development, have arisen from voluntary employer-employee relations in a free labor market. Labor problems are a manifestation of freedom of choice in economic activity. Strikes and lockouts, for example, are concrete demonstrations of the freedom of the employee not to work, and of the corresponding privilege of the employer not to hire. Strikes, unemployment, wage demands, and other aspects of the labor problem in America are phenomena which can exist only in a democratic society. Communists boast that in Russia there is no unemployment, no strikes, no conflict over wages. The reason is that there is no freedom of choice. Both management and labor are shackled by the arbitrary whim of a dictatorial bureaucracy.

The Nature of Labor Economics

Labor economics is not synonymous with labor problems. We have already observed that labor problems are evolutionary in character. The march of technological progress, population shifts, monetary changes—all tend to alter the complexion of the labor problem in course of time. Yet labor problems of some sort are always with us. They are, in a sense, one aspect of the continuing struggle by the common man to better his lot. The increased interdependence of society has simply endowed this struggle with a greater urgency. Labor economics seeks to find some enduring laws or principles in underlying economic relationships which can be applied to the solution of these problems as they appear in different form —in much the same way as the astronomer seeks to find order in the changing panorama of the stars.

Thus, labor economics is the branch of general economics which deals with the underlying relationships prevailing in the market for labor's services. It seeks to develop tools of analysis and a frame of reference which can be utilized in examining and solving labor problems. Its conceptual apparatus, on the whole, is not indigenous, but is borrowed heavily from other fields in general economics. Since many important problems present themselves in the form of wage-cost-price relationships, equilibrium analysis derived from economic theory will constitute a particularly useful tool in our dissection of labor problems. Concepts and schematic models borrowed from writers on business cycle theory will be freely used in our examination of the relation of unions and industrial fluctuations. The discussion of employer attitudes and policies will rely in part upon lessons drawn from the field of personnel administration. Thus, in the analytical equipment of labor economics, as in the nature of labor problems, we find the influence of many related social disciplines.

IMPORTANCE OF SCIENTIFIC METHOD

Because labor problems are evolutionary in nature, it is important that their study be undertaken with an open mind, free from prejudice and preconceived ideas of what is "right" and "wrong." Unfortunately, however, labor problems are typically approached with more passion than perspicacity. Emotion and innuendo frequently play a major role in public debate on the subject. Yet in labor problems the maxim is peculiarly applicable that there are two sides to every argument. Indeed, to understand a labor problem in its entirety, it is essential to grasp the conflicting viewpoints of its partisans. Labor problems typically are not subject to monistic interpretation. The union leader and the business executive will analyze situations differently, because each reasons from different premises. It is important to clear thinking in this subject that the reader ascertain the nature of these premises, so that the logical validity of the argument which they support can better be appraised.

Likewise, it is futile to seek for a single panacea in the field of labor problems. A remedy satisfactory under one set of conditions may prove wholly inadequate under altered circumstances. Yet the public seems to have a peculiar predilection to grasp at every new doctrine as a solution for all labor troubles. For example, at recurrent intervals in our industrial development, the notion of profit sharing for employees has been advanced with almost evangelical fervor as the ultimate solution for our labor problems. The failure and abandonment of most profit-sharing plans has been attributable not to any inherent defect in the notion itself, but rather to its indiscriminate application to situations in which it had no prospect of success. The disillusionment which has been occasioned by the failure of profit sharing and similar schemes could have been avoided by more careful preliminary investigations of the conditions essential to the successful operation of these plans.[5]

Many popular fallacies in the field of labor problems have their origin in a failure to make explicit the major premise of an argument, and in reasoning erroneously from the particular to the general. For example, an individual manufacturer may find it profitable to keep wage rates as low as possible so as to obtain a competitive advantage over other firms. It is erroneous, however, to conclude from this circumstance that a policy of low wages is beneficial when practiced by business in general. The individual manufacturer can assume that his wage policy will not materially affect the demand for his product; therefore his costs are curtailed while his receipts are maintained. But when all business enterprises together reduce wages, the assumption that demand will be unaltered can no longer be maintained. The faulty basic premise in this chain of reasoning from the particular to the general is thus revealed as the assumption that demand conditions are independent of wage policies. Once this basic premise is uncovered, the possible errors in the conclusion become evident. In dealing with other generalizations in the field of labor problems, the reader should adopt a similar policy of ferreting out the implicit assumptions and testing their logical and practical validity.

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[5] See Chapter 5.

Scientific method requires an appropriate combination of inductive and deductive reasoning. Wherever possible, reference should be made to empirical data. Frequently a report from field investigation as to how employers do in fact act under certain circumstances will throw more light upon a particular problem than hours of theorizing as to how employers might be expected to act. Yet it must always be remembered that facts do not speak for themselves, nor do statistics alone ever support or discredit any theory. Both require interpretation and, in giving them this interpretation, the investigator is compelled to fall back upon deductive analysis to scrutinize the "facts" which are reported from the field and place them in their proper logical framework.

Clear thinking is important in any subject. It is particularly important in the field of labor, because labor currently is coming under more and more sweeping governmental regulations. In evaluating many labor laws, for example, we are called upon to balance the traditional freedom to strike, on the one hand, with the right of the community to have an uninterrupted flow of essential services. The delicate balancing of considerations which such a problem requires cannot be made in an atmosphere of name calling and recrimination. It calls for objectivity and a conscious recognition of the road down which such regulations may eventually lead us.

Part II

LABOR HISTORY AND LABOR STATISTICS

2

History of the American Labor Movement

The American labor movement is unique. To an extent greater than labor unions in other countries, organized labor in America has retained confidence in economic action as a means of securing its ends. At a time when English trade unionists have concentrated on electing labor governments, and when many European labor movements have become instruments of Communist Party power politics, the American unions continue to stress the practical, less spectacular job of securing better wages and working conditions for their members within the framework of a free economy and a democratic government.

That does not mean that American unions are less dynamic than their European counterparts. In its struggle for "more, always more," American labor

> has employed clubs, shotguns, and dynamite. It is the hardest-hitting, most violent unionism in all the world. Its fighting character has been shaped by the American frontier tradition, by the opposition of employers, and by the necessity of operating as a minority group in a hostile environment where every battle could easily turn into a fight for naked survival. The European mind has real difficulty in understanding that blood will be shed for the trifling object of putting a few more cents per hour into the pay envelope, that ten workers will be killed in a contest with a steel company over simple union recognition, that over a million workers will be on strike at the same time, causing a creeping paralysis to spread over the economy, *without these strikers being the advance guard of revolution.* To the radical whose mind runs in the European pattern, it looks very much as if someone is missing a great opportunity.[1]

Likewise, the fact that American unions have not been concerned with seizing the instruments of production or altering the forms of government does not mean that their activities do not bring about radical changes in methods of work or control of jobs; nor does it mean that the interests, aims, and policies of labor often do not run counter to those of other groups. Moreover, profound change has occurred as a result of the activities of American unions. Today

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[1] M. S. Pitzele, "Can American Labor Defeat the Communists?" *Atlantic Monthly* (March 1947), p. 28.

> they affect, in one way or another, the sharing of the product of industry among persons and economic classes, the allocation of social resources, the attitudes of millions of persons toward existing social and economic arrangements, the volume of employment and of unemployment, the rate and direction of social change, the character of legal rights and prerogatives, the material status of large parts of the population, the stability or instability of business activity, the technical processes of production, and the policies of government. The implications in the realm of economic analysis of the policies they pursue and the methods to which they resort are both numerous and profound.[2]

The Conditions of Organization

Despite differences, all labor movements have certain common characteristics. They arise initially out of the separation of the worker from his tools. When a man becomes an employee instead of a self-employed person, he loses control over the terms and conditions of his employment. With the development of a factory system of labor and a concentration of ownership employing large numbers of workers, the individual finds his influence over working conditions steadily lessened. Under such conditions the worker quite naturally seeks increased bargaining power by joining with his fellow employees to make common demands on employers.

Looked at another way, we may say that workers tend to show interest in organizing unions when they feel that their opportunities for advancement in the organizational hierarchy to the employer class become quite dim. If the worker feels he is soon to be an employer, he is interested in advancing as an individual. If, however, he believes that he will remain a worker for at least a long period, then he will be interested in raising the standards of the working class through unionization.

A fundamental condition for the existence of trade unionism everywhere is the existence of civil liberties. Freedom of speech, press, and assembly must exist or be secured before unions can be organized and operated as free entities. The so-called "unions" which operate in dictatorial or totalitarian countries are, in fact, organs of the state, controlled and operated by the state, and lacking in power to act except to transmit state orders. We shall be concerned with unions in the traditional sense: organizations of workers, which function primarily as the agent of employees in collective bargaining with employers or management over the terms and conditions of employment. Such unions may engage in a variety of supplementary activities. The essential point is their primary interest in collective bargaining, and their freedom, subject to some legal limitations, to act unrestricted by state control or domination.

Once the initial conditions are met, labor organizations emerge

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[2] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 1.

"among employees who have strategic market or technological positions. They have bargaining power. They can make it hurt."[3] They are workers possessing a hard-to-replace skill, e.g., toolmakers; or those located at critical spots, e.g., teamsters or longshoremen. They may form a union solely of their own, or they might find it necessary or wise to bring in their less strategically located fellow employees. In any case, they are the essentials of unionization.

The speed with which a labor movement organizes is a product of economic and political conditions. American labor unions have made their greatest gains in periods of rising prices and labor shortages (1863–1872; 1896–1904; 1917–1920; and 1941–1945), and in periods of political unrest (1827–1836; 1881–1886; and 1933–1937.)[4] Under the former set of circumstances, union growth occurred because it enabled "wage earners to increase their wages to an extent more closely approximating the rise in prices. The individual worker joined unions to push up his wages; the tightness in the labor market and the general level of profits enabled the union to get results."[5]

On the other hand, union growth during periods of political unrest has additional connotations, for it represents worker dissatisfaction with the economic system. In such periods, radical tendencies in unions become more prominent. Complete failure of unions to achieve results along traditional lines affords the opportunity for radicals to convert unions into instruments of political revolution. Post-World War II Europe affords ample examples.

The American Environment

If, however, the conditions of union organization and growth are similar in various lands, the environment is not, and it is the uniqueness of the American scene which has made American labor unions unique. America was settled by a wide variety of races and nationalities who inhabit a wide area rich in natural resources. The results have been an unparalleled high standard of living for the masses, great opportunities for individual advancement, a huge market for industry's products, an abundance of living space, racial and national rivalries, and relative freedom from legal restraint on business and labor. The effect on the American labor movement has been profound.

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[3] J. T. Dunlop, "The Development of Labor Organization," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 180.

[4] J. T. Dunlop, "The Development of Labor Organization," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), pp. 190–191.

[5] J. T. Dunlop, "The Development of Labor Organization," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), pp. 190–191.

Class Fluidity

A fundamental characteristic of the American scene has been the comparative fluidity of classes. Penniless immigrants arriving in the United States have seen their sons become business executives, labor leaders, statesmen. One is not born in a status. Although romantic "America First" writers have tended to overestimate actualities, the fact does remain that this has been and is the land of opportunity. Since class lines are not hard and fast, workers have been able to advance as individuals. American workers have, therefore, been less interested in trade union organization. Indeed, it was not until the great depression of the 1930's that large numbers of workers decided that they needed unions at all.

America's loose class lines have not only hindered union development, but have shaped unionism as well. In being interested primarily in improving labor's conditions within the capitalistic system, American unions reflect their members' basic belief that this is still the land of opportunity.

Resources and Land

The rich resources of America have, of course, aided in preventing the rise of hard class barriers by providing the opportunities for advancement. Moreover, the traditional "rugged individualism" of American employers stems from the same sources. In labor relations, employer "individualism" has featured opposition to government or union "interference" in the operation of business, and the refusal to recognize unions of employees or collective bargaining until compelled by law. Needless to say, employer opposition seriously retarded the growth of unions, and today still conditions the attitudes in collective bargaining.

One of America's great resources has been abundance of land. The westward migrations drained off potential city proletariat. Although early writers perhaps overestimated the effect of free land, there can be no doubt that many workers went West to seek individual fortune instead of remaining in the East and joining unions to seek group advancement.

Wide Markets

The size of the American market has been an important factor contributing to the growth of American unions:

> The extremely rapid widening of the competitive areas within which have been determined the prices of goods, and therefore the exchange value of labor, has played an important part in fostering trade union development in the United States. In the 1830's, as is indicated later, the city federation of various local craft or trade unions (then called the city "trades' unions") was sufficient in most cases to protect the organized workers against competitive underbidding, since the competitive menace at that time was not so much the out-of-town product made

> under lower labor costs selling in the same market as the products of unionized labor as the low-paid out-of-town mechanic coming to the city and underbidding the union members. When, however, goods made in one locality competed actively with those produced elsewhere, equalization of competitive conditions in various localities became necessary, and national trade unions were the obvious remedial expedient. It was not, in fact, until the nation had become a national market that unionism became a truly national movement. To the rapidity of market area expansion and to the vastness of these market areas are attributable a not unimportant part of the trends in, and characteristics of, the movement noted in the following pages.[6]

The development of the national market not only stimulated labor organization, but paradoxically made that organization more difficult. In order to preserve the wage scale of unionized shops, unions usually must organize competitor shops. With a continental market, however, nonunion competitors can be a thousand miles apart. The resources which American unions require in order to organize an industry are thus very great, and their task more difficult as a result.

Moreover, the large American market permitted the breaking down of jobs into small specialized units of the mass production process. Thousands of workers were employed in unskilled or semiskilled jobs, their efforts combining to perform a task done in smaller countries by a single skilled worker. Since the semiskilled and unskilled are easier to replace than the skilled, the bargaining power of labor was correspondingly reduced and the ability of unions to compel a reluctant management to recognize their existence was considerably lessened.

Heterogeneous Population

Another factor hindering the development of labor organization has already been noted in Chapter 1—the many races and nationalities without common heritage, with rivalries, suspicions, and often without obvious mutuality of interests. Such heterogeneity presents a labor force which is much more difficult to weld into a labor movement than one in which the labor force is homogeneous in ethnic background and composition. To the natural suspicions has been added the tendency of American employers to play up these differences in order to prevent unionization. The policy of many factories in employing a "judicious mixture" of ethnic groups, or the practice of substituting a new wave of immigrants when an older wave showed signs of becoming restive with the status quo, kept these rivalries alive and made the task of the union organizer all the more difficult.

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[6] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 16–17.

Social and Legal Background

Also as stated in Chapter 1, the legal and social system in the United States, itself a result of the environmental factors of the American scene, has strongly conditioned American labor. The strong support of private property among the masses, the high esteem of business men in the population as a whole, and the consequent unpopularity among the dominant middle class of trade unionism, which is often pictured as "anti-business," have all helped to make the American labor movement difficult to build and anti-socialistic (pro-private property) in order to exist.

The Beginnings, 1790–1870[7]

Records of local labor unions and of strikes antedate the Revolutionary War but labor organizations in Colonial times were very short-lived. Commencing in the 1790's, however, came the first known unions which served for a number of years: shoemakers, carpenters, printers, bakers, and tailors formed organizations of their crafts. Sometimes organization was defensive against the merchant-capitalist, a new functionary who bought and sold in large quantities over wide areas, and therefore broadened the scope of competition. This often either compelled master craftsmen to discontinue independent work and hire out as journeymen, or else forced the master to reduce the wages of his journeymen. On other occasions, organization was spurred by the shortage of skilled labor and the desires of craftsmen to take advantage of the demand for their services.

These early unions were composed entirely of skilled or strategically located (teamsters, longshoremen) workers. In fact, throughout history, this group has always been the first to organize. Those who by reason of skill or strategic location can exert pressure or inflict a loss by withdrawing their services, possess the ability to secure employer recognition long before their less favorably placed fellow workers.

Early unions did not engage in collective bargaining as we know it today. Customarily, the union "posted its prices," i.e., announced the wages and working conditions for which its members would work. If the employer refused to agree, a strike would ensue, and perhaps a compromise would be worked out. Only slowly did the custom develop of joint employer-employee conferences at which bargaining occurred *prior* to direct union action. Even in the later part of the nineteenth century when collective bargaining as we know it today was well under way, unilateral union posting of wage schedules was not uncommon.

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[7] Although the authors accept full responsibility for interpretations, they have frankly based the historical section on secondary sources, including the pioneer works of John R. Commons and his associates, R. F. Hoxie, and Norman J. Ware, but especially on the admirable synthesis of Professor Royal E. Montgomery (H. A. Millis and R. E. Montgomery, *Organized Labor*, New York, McGraw-Hill Book Company, 1945, pp. 1–242). The lack of detailed documentation is for reader convenience, and is not intended to understress our great debt to these authors.

THE CONSPIRACY DOCTRINE

Early unions were not received with complacency by employers. The latter found a firm ally in the judiciary, which throughout the nineteenth century stood firmly with the well-to-do class from which its members were recruited. The ancient doctrine of conspiracy was brought out and applied to "labor combinations in restraint of trade." Although "there was nothing unlawful in combination itself, nothing unlawful in an individual's refusal to work, and nothing unlawful in a workman's desire to obtain better standards of employment,"[8] the early judges found it all added up to a conspiracy. Thus in the famous Philadelphia Cordwainers' case,[9] the learned judge declared: "A combination of workmen to raise their wages may be considered in a two-fold point of view: one is to benefit themselves . . . the other is to injure those who do not join the [combination] . . . The rule of law condemns both . . . " Hence the workers were jailed and fined.

The judges were reasoning from their socio-economic point of view. They regarded unions as a threat to the status quo of society of which they were a part. As time wore on, however, more reasoned justice asserted itself. As always, judges were susceptible to public opinion. "Mobs of laborers held mock trials of judges and hung them in effigy to show their resentment at being treated as common criminals for having done what they believed they had a perfect right to do. Juries were refusing to convict in spite of clearly proved cases of criminal conspiracy . . . Even the press attacked judicial statements that unions were of foreign origin . . . "[10] It was thus not surprising that in 1842, the Massachusetts Supreme Court dealt the criminal conspiracy doctrine a mortal blow by ruling in effect that the legality of a strike depended upon the end sought, and that mere purpose of requiring all workers to join a union (closed shop) was not *per se* illegal.

CITY-WIDE MOVEMENTS, 1825–1837

Andrew Jackson rode into the presidency on a wave of agrarian and urban revolt against that era's prevailing economic and political inequalities between different classes. Most rankling to the urban wage earner was the length of the workday (sunup to sundown), imprisonment for debt, compulsory militia service from which the rich could buy excuse, absence of mechanics' lien laws to protect workers in case of employer bankruptcy, property qualifications for voting, and lack of free educational system.[11]

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[8] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton, 1946), p. 19.

[9] An 1806 case. Cordwainers were shoemakers, originally those who worked on cordovan leather.

[10] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton, 1946), p. 27.

Workers in New York, Philadelphia, and other seaboard centers attempted to cope with these problems through their unions. The battle was fought both by direct economic action and by political action. The former technique was utilized to improve wages and working conditions, especially by reducing hours to a straight ten per day.

POLITICS AND FEDERATION

It was in the political field, however, that the unions of this period made their most spectacular efforts. Workingmen's parties were formed in New York, Philadelphia, and other centers, and, particularly in the two largest cities, they held the balance of power between the Federalists and the Democrats for several years. One Congressman, Ely Moore, was elected by the workingmen's party in New York. In addition, a number of state and city officials were elected by that party in the New York and Philadelphia areas. More important, however, was the effect on the Democrats. Anxious to secure the workers' votes, New York's Tammany Hall adopted the basic workers' program: free public education, universal suffrage, and mechanics' lien laws were adopted or strengthened and compulsory militia service for poor only commenced to disappear. By 1834 the workingmen's parties had folded, but their imprint remained.

There were some attempts at federation during this period. The local unions in the cities formed central trades organizations to coördinate their activities, and some attempts were made to consolidate them into a national organization. A National Trades Union was formed in 1834, but it lasted less than five years. It did successfully agitate for the establishment of the ten-hour day in government employment. The workers' problems were primarily local, however, and they were unwilling to cede authority to a national body. The same factor hindered the establishment of national craft unions although at least five crafts attempted to form national unions in the 1830's.

A feature of the labor movement in these early years was the prominent role played by intellectuals. Robert Dale Owen, son of the English industrialist-philanthropist; Frances Wright, our first women's suffragist; and the brilliant pamphleteer, Thomas Skidmore, all left their imprint on the labor movement and all saw their programs promoted at one time or another by the unions. As the unions grew, however, a gulf between the practical needs of workers and the Utopian dreams of reformers developed.

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[11] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 23 ff.

In 1834, the intellectuals' hopes received a substantial setback when the unions "squelched at the outset the attempts of the intelligentsia to turn [the National Trades Union] primarily into a political arena."[12] In 1837, the financial panic and ensuing depression wiped out almost every form of union then existing. Never again did the intellectual "find the labor movement quite so willing to accept, without question or qualification, his pronunciamentos as to its manifest destiny."[13] Nor should this be surprising. For throughout history, the intellectual who attaches himself to the labor movement has all too often attempted to convert unions into either likenesses of his idealism or vehicles for his reformist dreams, whereas union members and leaders are primarily interested in the more prosaic, but necessary day-to-day business of improving wages and working conditions.

REFORMISM TO NATIONAL ORGANIZATION, 1840–1867

The depression which began in 1837 was one of the severest in American history. The ranks of unions thinned out and disappeared in the face of mass unemployment. The experience and records of twenty years were lost and the labor movement had to start anew. The decade of the 1840's saw the formation of many new unions, but too frequently their interests were diverted toward reformist programs which were often more well-meaning than practical. The spokesmen of various brands of socialism, land reform, consumer and producer coöperation, farmer-labor parties or political action, the eight-hour day, and free land all attempted to win labor's support. In the last analysis, however, it was the practical trade unionist who won out, for he alone could deliver something more substantial than the promised millennium to cope with the problems of wage earners—problems made more severe by the commencement of the "American industrial revolution." For it was about 1840 that the use of anthracite coal stimulated the rise of the steel industry; that railroad development began; and that increased industrialization and urbanization went forward rapidly. This decade also saw rapid increases in population, wealth, rising prices, and a consequent increased demarcation between the property holders and the propertyless.

Unionism of this time was confined to the skilled, but it was vigorous and firmly rooted. Beginning in 1852 with the founding of the International Typographical Union,[14] during the following ten years at least a dozen organizations were formed which survive to this day. The Civil

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[12] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 32.

[13] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 33.

[14] Unions are called "International" in the United States because they have locals in Canada.

War, separating North from South, and dislocating industry and the economy, at first seriously set back the new unions; later however, by creating a shortage of labor and stimulating industry, it fed the unions. By 1867, the union movement was ready for a serious attempt at national federation. The result was the National Labor Union, founded in that year.

Professor Montgomery aptly summarizes the National Labor Union as "a politico-reform and trade-union society."[15] Knowing nothing of the early struggles of labor for freedom from political domination, and beset by the problems of rapid post-Civil War industrialization, the union founders of the National Labor Union permitted political as well as labor organizations to affiliate. When, moreover, the organization's propaganda led to the adoption of the eight-hour day in federal employment within one year, a naïve faith in political action, often since reiterated, developed. Other panaceas or reform objectives, however, failed of attainment. States did not, as hoped, pass eight-hour laws; producer cooperation or worker ownership of industry failed to materialize; and "cheap money" or the Greenback movement brought no success to worker aspirations. Slowly, the unions dropped out and the National Labor Union became purely political until in 1872 it became defunct.

The Great Upheavals, 1870–1895

Even before the National Labor Union was engulfed by politics, seven tailors met in Philadelphia determined to found an organization which would transcend the narrow limits of craft unionism and unite all workers under one banner, regardless of race, sex, nationality, or creed. Thus was created the Order of the Knights of Labor, which as a secret society spread slowly through industrialized Pennsylvania.

Gradually, the secrecy became a liability. Secret organizations were in ill-repute in the anthracite region as a result of the activities of the Molly Maguires, a terroristic group which attempted to achieve social justice by murdering company officials. The Mollys were uncovered by a Pinkerton detective, who managed to become a Molly official and thus achieve fame as the first in a long line of labor spies. Several Molly officials were hanged for murder, but a question remains as to whether the real culprits were punished.

The Knights' secrecy was formally abolished in 1879 when Terence V. Powderly became the "Grand Master Workman." He insisted that this be done so that the official approval of the Catholic Church could be secured for the new organization. Thereafter the Knights grew rapidly.

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[15] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 50.

The Nature of the Knights

The Knights of Labor was an interesting cross between a union and an uplift society. It attempted to weld together all elements of the working classes, and to do so, permitted craft unions to affiliate directly with its "general assembly" (national organization), and also organized "mixed assemblies," i.e., local organizations composed of a variety of workers organized on either an industrial or a heterogeneous basis.[16] Its program stressed political reform, and was closely allied with the agrarian revolt of this period which is known as the "Great Upheaval." T. V. Powderly, for many years leader of the Knights, was a kindly, friendly Irishman, who had a keen sense of social justice, a yearning for a better life, and a firm belief in the common virtues and the American system of private property. Some of his allies, however, were more radical, and they gave the Knights its tone; for local autonomy ruled under the Knights' by-laws. This fact, coupled with the lack of experience of the membership, was a big factor in the rapid rise and fall of the organization.

The Knights of Labor reached its apex in 1886 after a strike on the Wabash, Missouri-Kansas-Texas, and Missouri Pacific railroads had forced Jay Gould, the financier who controlled these railroads, to grant recognition. From 100,000 the previous year, the Knights' membership rose to 700,000. Members came in so fast that it was necessary for the central office to suspend organizing to assure that no lawyers, bankers, gamblers or liquor dealers, or Pinkerton detectives, the only barred groups, would join the Knights.[17]

The decline of the Knights was as rapid as its ascent. Losses in a number of strikes, including defeat in a second Missouri Pacific walkout,[18] and the separation of the skilled men into a rival organization, later known as the American Federation of Labor,[19] turned the tide. In 1888 the Knights claimed only 222,000 members; in 1890, 100,000; and in 1893, but 75,000. From then till their official dissolution twenty years later, their central office was engaged primarily in reform propaganda, often allied with the agrarian Greenback and Populist parties.

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[16] An industrial union includes all workers in a plant, industry, or industries regardless of craft or trade, whereas a craft union includes workers of one craft or trade regardless of the plant or industry in which they are employed. Heterogeneous unions are those which take membership on any basis.

[17] See T. V. Powderly's autobiography, *The Path I Trod* (New York, Columbia University Press, 1940), p. 143.

[18] For evidence that Martin Irons, leader of the Knights' organization on the Missouri Pacific, was forced to call the second strike at the gun point of an alleged company spy, see T. V. Powderly, *The Path I Trod* (New York, Columbia University Press, 1940), pp. 114–143; and Ruth A. Allen, *The Great Southwest Strike* (Austin, University of Texas, 1942), pp. 56–62.

[19] See below, pp. 28–29.

HAYMARKET AND PULLMAN

Two additional incidents of the "Great Upheaval" had a profound effect on the American labor movement. The first was the Haymarket bombing in Chicago in 1886 by persons unknown, which killed six and wounded scores attending a radical meeting. Four anarchists were hanged for murder, one committed suicide, and three were jailed after being found guilty. Governor Altgeld of Illinois subsequently pardoned those in prison after finding, as all students now agree, that the convicted were innocent men railroaded by injustices.[20] The effect, however, damaged the labor movement, and particularly the Knights, who were wrongly associated in the public mind with the bombing.

The other event, the Pullman strike in 1894, marked another setback for radical unionism and helped to insure the triumph of the type of unionism represented by the American Federation of Labor and the railroad brotherhoods. This strike involved the American Railway Union, an industrial union founded by Eugene Debs, former secretary of the Brotherhood of Locomotive Firemen and Enginemen,[21] and later America's most popular socialist leader. Debs sought to unite all railway labor under one banner after observing the interunion bickering which featured the craft unions on the railroads. He appeared to be well on his way to succeeding after winning a strike on the Great Northern and attracting 150,000 workers to his banner, when the workers in the company town of Pullman (now a part of Chicago) struck in protest against wage cuts and increased rents by their paternalistic boss. An attempted boycott against Pullman cars was at first successful, but it brought the federal government into the fray on the side of the employer and caused the defeat and destruction of the union. The conservative AFL and brotherhood leaders, although concerned at the government's strike breaking, were not unmindful of the danger to their organization if Debs' type of unionism should succeed. They therefore did not coöperate with the strikers to any degree.

The Rise of the American Federation of Labor

While the Knights of Labor was achieving its great boom, a group of trade union leaders met in 1881 and formed what was first called the Federation of Organized Trades and Labor Unions and then, after 1886, the American Federation of Labor. Led by Samuel Gompers and Adolph Strasser of the Cigar Makers' Union, this group was composed primarily of representatives of the skilled trades who not only did not desire to be submerged in the mass movement of the Knights of Labor, but who feared that the net result of the Knights' activities would be the destruction of trade unionism as they conceived it. These trade unionists felt that the mass movement of the Knights of Labor was doomed to failure; that trade unionism could best succeed if confined to those who were able to organize themselves, in other words, to skilled or strategically located groups; and that trade unionism should confine itself to the immediate issues of improving workers' wages and working conditions rather than to work for a Socialist Utopia, or to get entangled with other political movements or "uplift" campaigns.

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[20] See Henry David, *The Haymarket Affair* (New York, Farrar and Rinehart, 1936).

[21] For details of this organization and the strike, see Almont Lindsey, *The Pullman Strike* (Chicago, University of Chicago Press, 1942).

The philosophy of the AFL leaders was thus a pragmatic one, grounded firmly in the principles of American capitalism. They were out to improve the conditions of those whom they represented and they represented the skilled workers or workers who, because of their strategic location, had bargaining power sufficient to command employer recognition. To the great mass of workers they said in effect: "Organizing will help you, but until you are ready for organization, we can best aid you by pulling up our wages and thus indirectly influencing yours to rise also."

Samuel Gompers

Samuel Gompers and his fellow founders of the AFL did not come to their conclusions concerning the type of labor movement that could prosper in America without patient study and experience. Gompers was a self-educated man. The son of Dutch-Jewish immigrants, he was brought to this country as a child and as a youngster went to work in the slum tenement cigar factories in New York. Early in his working career he became acquainted with the German socialists, mainly refugees from the unsuccessful European revolution of 1848. Through them he was familiarized with the writings of Marx, Bakunin, the anarchist, and the other literature of socialism. Often the cigar makers worked in groups of 10 or 15 with one of the workers spending the entire day reading to the rest and his fellows making up his wages out of their own. At the same time, Gompers took an active role in the developing Cigar Makers' Union and thus acquired the practical experience of trade unionists.

Although sympathetic with the aims of socialism, Gompers and his fellow trade unionists were thoroughly convinced that a labor movement founded as an arm of the socialist party, or even espousing socialist principles, could not survive in America. Gompers saw clearly that any organization which made a frontal attack on private property would alienate the dominant American middle classes and would find little support even amongst employees, who were less class conscious and more interested in getting ahead as individuals than any of the European Socialists had been able to comprehend. Accordingly, the program of the American Federation of Labor was geared to the requirements of the American scene. It succeeded where other movements had failed.

Although during the first years of the AFL growth was slow, it was steady and, as the Knights of Labor declined, the Federation forged ahead. Socialists made attempts to convert the AFL into an appendage of their organization. In one year, 1894, they did succeed in defeating Gompers for the presidency. They were unable, however, to place their man at the helm for more than one year, and Gompers was returned to office which he held every year thereafter until he died in 1924. Later the Socialists changed their program and attempted to form a rival organization known as the Socialist Trade and Labor Alliance. This organization failed, however, to become anything more than a paper one. It had virtually no mass following and consisted mainly of hard working pamphleteers and rigid doctrinarians in New York City under the leadership of Daniel De Leon. An extraordinarily able but difficult person, he spent most of his time attacking his fellow radicals for deviations from "true Socialist principles." Meanwhile the AFL prospered. By 1902, its membership exceeded one million.

In order to insure control of the AFL by national unions, Gompers was careful to reject affiliation offers by political groups. The constitution of the AFL maintained the national unions as autonomous organizations each with exclusive jurisdictional rights in its territories. An executive committee, at various times of 5 to 13 persons, elected from affiliated national unions, plus a full-time president and secretary, governed the Federation between annual conventions. Representation in the AFL conventions was based on dues-paying membership. A combination of a few larger unions could thus control the AFL. The president's office had little authority. By leadership, force of personality, and an astute sense of politics, Gompers gave the AFL presidency a vitality not continued after his death.

THE AFL PHILOSOPHY AND THE RAILROAD BROTHERHOODS

During the latter half of the nineteenth century, a separate labor group flowered on the railroads built around the so-called "Big Four" railroad brotherhoods—the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors, and the Brotherhood of Railroad Trainmen. Founded between the years 1863 and 1881, these unions by 1900 had organized the great majority of workers under their jurisdiction. They had, however, developed in a different manner from the craft unions which made up the American Federation of Labor. Except for the Trainmen, they had been established mainly as fraternal and beneficial societies. Railroading was such a dangerous trade in those days that operating crews were unable to secure insurance and protection from injury at equitable rates. Their mutual benefit societies were aimed at taking care of this distressing problem. In addition, since many railroad towns were isolated, the organizations filled the social needs of the members. Hence the name "Brotherhood" or "Order," the terming of the local union "Lodge," and the designation of a top union official as the "Grand Chief Engineer." It was not until 1890 that all of these unions had assumed a trade union character. Their fraternal and beneficial aspects have remained, however. To this day an important feature of their contemporary activity is selling cheap life insurance to their members and providing a social life, as well, in many areas.

The Big Four brotherhoods have never affiliated with the American Federation of Labor or any other similar federation. There are many reasons why they have remained independent. One has been their intense discrimination against non-white workers. Organized as fraternal bodies they confined membership to white men as do many social fraternities. Later, however, the brotherhoods found this a convenient tool to combat the use of Negro train crews in the South and to shift unemployment onto non-union railroad workers. Although the AFL has never been consistent in its race relations and has not provided effective leadership to its constituent unions on this question, but rather has tolerated race discrimination, the vigor of the railroad brotherhoods' racism did not promote unity between the two groups.

Undoubtedly more important however, in preventing, over the years, affiliation of the railroad brotherhoods with the American Federation of Labor have been the different attitudes of these groups toward government intervention in labor disputes. The American Federation of Labor, as the true counterpart of American capitalism, has traditionally opposed government intervention in industrial relations matters. Samuel Gompers and business exponents of *laissez faire* were one in their belief that the government should confine its role in labor relations to policing and the maintenance of order and should not interfere in industrial relations matters or in the internal affairs of labor or business. Thus, Gompers opposed government intervention in labor disputes even to the extent of government facilities for mediation and voluntary arbitration,[22] foreseeing that such intervention might lead to compulsory arbitration. Moreover, he wanted no part of government assistance in union organization. He did not think the government should outlaw discrimination against workers because of union membership, believing that such government aid would lead to government control.[23]

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[22] Mediation or conciliation is the process whereby a third party attempts to secure settlement by persuasion and compromise. Arbitration involves the use of a third party to decide a dispute.

[23] That this was no idle fear is evident. Twelve years after the pro-union Wagner Act was passed, Congress enacted the Taft-Hartley law, a union-control act.

In social welfare matters Gompers was likewise opposed to government intervention. No less than business men he was against a government minimum wage for men and against government unemployment insurance and other forms of governmental social security. He believed that such welfare programs would weaken democracy by making citizens too dependent upon the state; that a minimum wage would tend to become a maximum and thus limit union action; and that minimum wages, unemployment insurance, and other social security measures could best be provided by the workers themselves through trade unions. The only exception to this rule, he felt, was maximum hours and minimum wage legislation for women and children, and for government employees. These groups had little bargaining power and were therefore, he felt, in need of special government protection.

Early Railroad Labor Legislation

Philosophically and ideologically, the railroad brotherhoods were not differently oriented from Gompers and the AFL. They were, however, as pragmatic as was Gompers and they were in a different position from that of the AFL unions. For theirs was not the question of whether there would be regulation or not. Instead, it was the question of what kind of regulation there would be. The increasing concern of the people over the abuses of railroad ownership, together with a number of severe railroad strikes in the 1870's and 1880's—some of which had been put down rather bloodily with the use of troops—called forth demands for machinery which would insure peaceful settlements on the railroads and end interruptions of interstate commerce.

Having passed the Interstate Commerce Act to regulate the abuses of railroad management, Congress turned its attention to industrial relations on the railroads. In 1888 it passed the so-called Arbitration Act, which provided machinery for voluntary arbitration and the appointment of a presidential fact-finding board to investigate disputes. The arbitration features of the law were never utilized and the fact-finding features only once, and then after President Cleveland had effectively destroyed the Pullman workers' strike in 1894.

In 1898 Congress tried again, passing the so-called Erdman Act. This law established the basic procedure for voluntary mediation and arbitration of railway labor disputes which is still adhered to in modern railroad labor legislation. In addition it contained an interesting section (declared unconstitutional by the Supreme Court in 1898) which forbade discrimination against workers because of union membership and outlawed the so-called "yellow-dog contract." The Erdman Act applied only to the operating employees of railroads because, significantly, they were the only organized group on the railroads at that time. Although the unorganized non-operating employees[24] were perhaps in greater need of legislation, they had no spokesman comparable to the Big Four brotherhoods.

Gompers was critical of nearly all sections of this law. He did not oppose its application to the railroads out of deference to the railroad brotherhoods, but he made it crystal clear that he wanted no such legislation for industry with which the AFL dealt. On the other hand, the railroad brotherhoods, realizing that the only question before them was the type of legislation, successfully fought for the protective features of the Erdman Act. This clash of views removed the possibilities of railroad brotherhood affiliation to the AFL at the time.

The Injunction and the Yellow-dog Contract

On one thing Gompers and the railroad brotherhoods agreed, and that was the necessity to curb what they termed "government by injunction." The injunction became prominent in labor disputes in the latter half of the nineteenth century. It was carried over into labor relations from the common law where it was devised to grant continuing relief where damages would not suffice to remedy a continuing harm. For example, if a farmer who depended upon a brook for water observed his neighbor upstream damming up that brook, he might, under certain conditions, go into court, present a bill to a judge, and secure an ex parte temporary injunction requiring the neighbor to cease work on the dam, to maintain the status quo, and to appear in court in a given period, usually a week or ten days, to show cause why the injunction should not be made permanent. At the hearing both parties would then have the right to plead before the judge as to what his course of action should be. The judge would then render an opinion, either dissolving the injunction or making it permanent. In any case any party who fails to comply with an injunction, whether temporary or permanent, is in contempt of court and subject to penalties which the judge may care to impose without trial by jury.

Employers soon saw in the injunction an ideal weapon to curb the activities of labor unions. An employer who felt that a strike was impending could scurry to a judge with a complaint and rather easily secure an injunction requiring the union to stay any action on the grounds that grave damages would befall the employer. In the intervening time the employer could fire union members and otherwise undermine the organization so that by the time the hearing was held, the question whether the injunction was to be made permanent or to be dissolved was irrelevant. Judges showed a ready disposition to grant injunctions on the flimsiest requests.

To supplement the injunction, a legal technique was developed which was soon termed by organized labor, and is now known generally, as the

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[24] I.e., employees in the railway shops, the railroad telegraphers, signalmen, clerks, maintainance-of-way employees, etc.

"yellow-dog contract." This is an agreement between an employer and a worker whereby as a condition of employment the worker agrees not to join the union. Unionists maintained that this was not a legal contract since the worker only signed it by coercion, and the courts of New York State upheld this contention by refusing to enforce it. The federal courts and those in most other states, however, maintained that the mere fact of inequality of bargaining power did not necessarily render a contract unenforceable. Thus, if an employer had signed up his workers to yellow-dog contracts, he might get an injunction requiring the union organizer to cease attempting to induce the employees to break their legal contracts! This was truly an effective anti-union device.

The climax of government by judiciary came when the Supreme Court ruled that the Sherman Anti-Trust Law, enacted in 1890 to curb cases of business combination, was applicable also to labor combinations and that employees who had instituted a nation-wide boycott against a hat manufacturer could be successfully sued for the treble damages provided in the law.

This was the background which led to the 40-year AFL campaign to end government by judiciary and to neutralize the courts. Gompers appealed continually to Congress to take action in this regard. He argued that he was not abandoning the principle of neutral government or "voluntarism" but rather that he was asking Congress to implement it; for the courts in his opinion were firmly on the side of the employer. In 1914 when Congress passed the Clayton Act, Gompers thought he had won his aim, but the courts whittled away this law by interpretation. It was not until 1932 with the passage of the Norris-LaGuardia Act that the AFL's great legislative drive achieved fruition—only to be partially annulled fifteen years later with the passage of the Taft-Hartley Act of 1947.

Industrial Relations, 1880–1914

The years of the great upheaval were also years which saw the first attempts at modern collective bargaining. National agreements negotiated in the stove, glass, and pottery industries, the beginning of regional collective bargaining in the bituminous coal industry, a large number of agreements in the building and printing trades, all showed promise of a conciliatory tone in industrial relations between labor and management. Under the leadership of John Mitchell, president of the United Mine Workers and one-time Gompers "heir apparent," the anthracite coal industry was organized and a working agreement achieved after two long strikes and federal intervention in the form of a fact-finding commission had forced the hard boiled operators to negotiate.[25]

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[25] Among them was George M. Baer, president of the Philadelphia and Reading Company, who immortalized himself with this statement: "The rights and interests

In the 1890's, also, industrialists and bankers under the leadership of Mark Hanna, President McKinley's campaign manager and later a Senator from Ohio, joined with Gompers and other AFL leaders in founding the National Civic Federation. This body sought agreement between labor and industry on broad principles, promoted collective bargaining contracts, and maintained voluntary machinery for mediation and arbitration of labor disputes. By promoting collective bargaining, the Civic Federation aided the immediate interests of the AFL. It frowned, however, on aggressive unionism. Since the latter was needed to organize the unorganized, unskilled masses, the Civic Federation's influence was more friendly to established unions than to union growth.

If, however, the AFL had established a beach head in industry through agreements and "class collaboration" in the Civic Federation, it found no warm welcome on industry's shores. This was especially true in the new mass production industries. Andrew Carnegie, rising genius of the steel industry, had at one time been anxious to deal with the Amalgamated Association of Iron, Steel and Tin Workers. He reasoned that by encouraging the union, he would encourage stability of prices, and since he figured he could outsell his competitors if he held them to equal costs, he promoted unionism to promote sales.

As Carnegie grew in the industry, however, his love for unionism declined. In 1889 he dealt the Amalgamated Association a terrific blow when he ousted it from his Homestead plant (near Pittsburgh, Pennsylvania) in a bloody strike. The course of unionism in steel from then on was downward, and as steel went, so went unionism in mass production. The United States Steel Corporation, which was formed in 1901, principally by Carnegie and Morgan interests under the latter's domination, refused to recognize the steel union, defeated it in its attempt to force recognition by a strike, and then gradually eliminated it from the plants where it had already been recognized. Mass production industries which grew up between 1900 and 1933 followed the lead of the steel corporation. Detroit, the automobile capital, Akron, the center of rubber products, the Pittsburgh-Ohio Valley steel center, Chicago, the heart of the meat packing combines, all kept unionism from their gates except for the briefest of periods during World War I, and other industries followed their lead.

As their spokesman, the anti-union interests found the National Association of Manufacturers an excellent crusader. Under the leadership of D. M. Parry and James Kirby, Jr., the NAM began an all-out attack on the "closed shop," proclaiming the open shop the American way, if not God's own way. To the NAM the open shop meant the elimination of

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of the laboring man will be protected and cared for not by labor agitators but by Christian men to whom God in his infinite wisdom has given control of the property interests of the country."

trade unionism. Between 1900 and 1914 the American Federation of Labor was on the defensive. It held its own in industries in which workers had strong bargaining power such as building, printing, glass, stove foundries, and to some extent bituminous coal mining, and its membership increased to 2,000,000 by 1914. Nevertheless, it failed to keep pace with a growing industrial plant. Even in those industries such as glass, where it had a firm foothold, the AFL unions were confined largely to the skilled employees. Coal mining was one of the few union strongholds among semiskilled and unskilled employees.

Thus, at a time when employers in other democratic countries, e.g., England and Sweden, had decided to accept collective bargaining, the leaders of American industry declared war on a conservative, pro-capitalistic, pro-private property labor movement. The fruits of this war are with us to this day in the suspicion, belligerency, and lack of good faith which characterizes much of modern industrial relations.

To be sure, many employers had good cause to reject unionism around 1900. The history of industrial relations provides many examples of unions during 1880–1900 refusing to sign written agreements, adhering to "quickie" strikes, and placing restrictive rules on expanding industries. Industry, however, had the opportunity to work out a modus operandi with the AFL, but the fight-unionism program of the National Association of Manufacturers prevailed over the coöperative program of the National Civic Federation.

The IWW

The failure of the AFL to consider the needs of the unskilled was in no small part responsible for the development of a rival organization, the Industrial Workers of the World. The IWW was a manifestation of discontent, principally on the part of workers in the metal mines, the logging camps, and the migratory labor forces of the West. Ignored by the AFL, and used to the direct action of the western frontier, the unskilled workers of that area turned to an organization which frankly espoused the overthrow of the capitalist system and preached and practiced militancy in industrial relations. The IWW would not sign contracts. They regarded such agreements as instruments of capitalistic enslavement. Local autonomy and mass action were the methods by which the IWW hoped to achieve its ends.

The bloody battles of the IWW, the attempts to suppress it, the denial of civil liberties, and the reply of the IWW to force in kind, have been told in numerous places and need not be repeated here. Of major importance, however, is the fact that the IWW never built a trade union movement as such. Its organizers were agitators who either stirred up trouble or took charge of trouble when it broke out. They often performed yeoman service in securing better wages, hours, and working conditions in particular situations. Once, however, their initial objectives were secured or lost, the IWW leaders were off to another trouble spot leaving the local organization to wither away. The press built up the "wobblies" as a tremendous organization. Their strength, was more carefully appraised by a scholarly observer of the labor movement after he had witnessed their 1913 convention:

> The first significant fact revealed by this convention, and by the whole history of the IWW as well, is that this body, which claims as its mission the organization of the whole working class for the overthrow of capitalism, is pathetically weak in effective membership and has failed utterly in its efforts to attach to itself permanently a considerable body of men representative of any section of American workers.[26]

IWW leaders energetically opposed the American entrance into World War I and preached sabotage to prevent it. As a result, many of the leaders were indicted, the organization proscribed, and what was left of the membership was pretty thoroughly broken up by the post-World War I red witch hunts of the then United States Attorney General, Palmer Mitchell, who hoped thus to scare his way into a presidential nomination. Today a few locals of the IWW still remain. Paradoxically, they have become extraordinarily conservative and have criticized the "radical" tendencies in the AFL and the CIO.

World War I to the Great Depression

The "New Freedom" of the Wilson administration promised organized labor many gains. One of these was the Clayton Act to restrain labor injunctions, which Gompers hailed as the Magna Charta of labor only to find that the Supreme Court thought otherwise. As the war approached the Wilson administration became more and more solicitous of labor support. Gompers, who at first had demonstrated a vigorous anti-war philosophy, soon was preaching for Wilson preparedness. A threatened strike by the four railroad brotherhoods for an 8-hour day was averted when President Wilson secured the passage of the Adamson Act guaranteeing the 8-hour day without loss of pay from the previous 10 hours to all operating employees of railroads (hence, not extending the benefits to the still unorganized non-operating group). As war approached, tripartite, public-labor-industry labor relations boards were established in critical industries and the AFL was given official recognition as a representative of labor. In return, the Federation put aside voluntarism and coöperated thoroughly with government.

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[26] R. F. Hoxie, *Trade Unionism in the United States* (New York, Appleton, 1924), p. 139.

When war finally broke out, President Wilson called together representatives of labor and industry, and they hammered out an agreement providing among other things, the establishment of a tripartite National War Labor Board, an agreement guaranteeing the right of organization and providing for a freeze on the closed shop issue which stated that open shops were to remain open and closed shops closed for the duration. Aided by the shortage of labor, the official recognition by government, and a truce with industry, organized labor's ranks shot up to 5,500,000, which proved to be the highest membership figure prior to 1935.

RAILWAY LABOR IN WORLD WAR I

A substantial section of organized labor's gains occurred on the railroads. Shortly after war was declared, President Wilson, pursuant to a 1916 law, took over the railroads and placed them under federal operation, under an agency known as the United States Railroad Administration. The Railroad Administration adopted a pro-labor program which forbade discrimination because of union membership, raised wages substantially, and improved working conditions and placed railway labor relations under the surveillance of the former president of the Brotherhood of Locomotive Firemen. Under this regime the operating unions increased their already strong position and the non-operating organizations, which had previously had only a foothold in the industry, almost completely organized the shop, clerical, telegraph, signal, and maintenance-of-way employees.

Having been treated so benevolently by government, the railroad unions wanted to freeze the status quo. They proposed the "Plumb Plan" by which the government would maintain possession of all railroads under a tripartite agency with union representation. This program had little support elsewhere so that the railroads were returned to private ownership in 1920. Although the Plumb Plan was supported by the AFL convention of 1920, it was bitterly opposed by Samuel Gompers, who felt that socialization of industry would mean the end of collective bargaining. The opposition of Gompers was enough, however, to defeat the last serious attempt on the part of the four railroad brotherhoods to affiliate with the AFL, for although the brotherhoods voted to affiliate, the question was pigeonholed by the AFL Executive Council.

POSTWAR STRIFE

World War I was followed by serious industrial strife. The nation had a major coal strike in 1919 and an industry-wide steel strike (which was mainly a demand for the end of the 12-hour day in blast furnaces and for recognition of the union). The strike was put down by the industry with considerable force after being portrayed as a "red menace" to the country. Serious stoppages also occurred in other industries such as meat packing, with the result that similar to another postwar year, 1946, the year 1919 was one of the costliest in terms of per capita days lost from work because of strikes.

The year 1919 was also an inflationary year with prices soaring, which of course was one of the serious reasons for labor discontent. High prices continued in the 1920's and then broke, and the country experienced a short but serious depression. Labor's gains of the war fell away as war industries closed and unemployment set in. Industry took the offensive with the "American plan," a dressed-up version of the open shop—dressed up by the first ingredients of personnel administration.

PERSONNEL ADMINISTRATION

During the war American industry had realized the high cost of hit-or-miss personnel policies. Industry became concerned for the first time over high labor turnover, foreman training, scientific salary administration, and the other elements which Frederick Taylor had been preaching for thirty years. Moreover, the public was demanding more democracy in industry and the more forward-looking industrialists saw that they must have something to meet the trade union challenge besides the famous remark attributed to the chairman of the United States Steel Corporation: "We do not deal with unions as such."

Out of this developed many elaborate schemes of employer representation and company unions. They were often deficient in many ways. Certainly in the last analysis, the company union cannot give the worker the bargaining power to stand up and fight for an enlargement of his share, since it ultimately owes its strength to company toleration. Nevertheless, it must not be forgotten that during the twenties it was the forward-looking, liberal employer who sponsored the company unions and the employee representation plans. The rest of the employers did not permit even such organization of their workers. Moreover, company unions played a valuable role in training future union leaders, in teaching employees to discuss their rights, to learn about business, and quite unintentionally to realize the impotence of company unions as bargaining agents—the last, only after depression destroyed the prosperity of the 1920's.

The AFL, 1920–1932

American trade unionism was in a state of decadence during the 1920's despite the fact that even today the AFL is led by some of the leaders who were prominent during the twenties. Some of them were old in spirit and unreceptive to new ideas by 1920. The Federation was unwilling and unprepared to organize the great mass of employees. As technological and mass production methods reduced skills and converted jobs into semiskilled operations, the AFL continued to hold on merely to the craft unions and made no serious attempt to organize the great body of workers. Membership slowly fell from the wartime peak to less than 3,000,000 in 1932. The coal miners' union, which had been the largest in the AFL, failed to organize southern West Virginia and Kentucky. Accordingly, it was eliminated from most of the northern mines because northern management could not pay union wages and compete with the South. Even the building trades unions, which were the bulwark of the AFL, lost their grip on San Francisco and failed to penetrate such new industrial areas as Detroit. The spectacle of a union movement declining in prosperous times was unprecedented in history.

THE RISE OF WILLIAM GREEN

Samuel Gompers held on to his post as AFL president till he died soon after the 1924 convention, at the age of 74. Although a vigorous man for his age, during the last ten years he was far from the leader that he had been during his prime. As his successor, the choice of William Green was the climax of one of the many charming American success stories whereby the hero achieves the coveted position more or less by accident. William Green is a native of a mining community in Ohio where he joined the United Mine Workers at an early age. After serving the UMW as district official he gradually made his way up to the national secretary-treasurership. His UMW career was temporarily interrupted by a term in the Ohio State Senate, where he distinguished himself by fathering a model workmen's compensation law.

Green's career might well have been capped by the UMW secretary-treasurership, had he not served as a tool for the egos and ambitions of two men named Lewis. The first Lewis, Tom (no relation to John L.) became president of the United Mine Workers in 1911 when the great John Mitchell resigned his UMW presidency. Two years later Mitchell also resigned as first vice-president of the AFL. Following the custom of the AFL when a member of the Executive Council resigns, the vice-presidents are moved up so that the last vice-presidency is open to a newcomer. Gompers, desirous of maintaining the political status quo of the AFL, therefore offered the eighth vice-presidency to Tom Lewis. The latter, displaying an ego reminiscent of his contemporary namesake, rejected the position, stating that he would have the first vice-presidency or none at all and suggesting that if the United Mine Workers could secure only an eighth vice-presidency, the AFL could give the job to Green. Thus the UMW secretary began his career as an AFL official.

Funeral by funeral, as it were, Mr. Green made his way up to the third vice-presidency by 1924. Meanwhile, the aggressive John L. Lewis had assumed the presidency of the United Mine Workers and clearly demonstrated his ambition by having the temerity to run for the AFL presidency against Samuel Gompers in 1921. John L. might well have made the grade that year except that Matthew Woll, president of the Photo-Engravers' Union and then designated Gompers' heir apparent, assumed the role of Gompers' campaign manager. He persuaded the delegates of the 1921 AFL convention that if they turned Gompers out, they would get a man who was so dictatorial that he could not possibly be lived with. The result was a two-to-one defeat for Lewis.

When Gompers died after the 1924 convention, the AFL Executive Council had the task of filling his shoes for the interim until the next convention met. Lewis, who wanted the job, knew he could not swing it, but he was determined to prevent his archenemy, Woll, from taking over. He therefore made a deal with the other "Indianapolis boys"—President Hutcheson of the Carpenters' union and President Tobin of the Teamsters' union, who like the miners and typographical unions then had their headquarters in Indianapolis. The deal placed William Green, a compromise candidate in the AFL president's chair, and he has been successfully reëlected ever since.

Although William Green owed his AFL presidency to John L. Lewis more than to any other one person, the decline in membership in the miners' union in the 1920's forced Green to rely more and more for political support on the building trades. As a result when the big controversy over union structure and power broke after the New Deal, Green was an ally of the craft unionists of many years' standing rather than of the industrial union group from which he got his start.

OTHER DEVELOPMENTS, 1920–1934

Even the railroad unions did not find the twenties an era of great success. In 1922 the shop employees went on strike on a nation-wide basis and were roundly defeated when the operating unions did not respect their picket lines. As a result the shop unions lost more than two-thirds of their membership which they never regained before the advent of the New Deal.

Railroad labor, however, made one great advance. It succeeded in securing the coöperation of the railway industry to sponsor a law, the Railway Labor Act of 1926, which Congress passed and President Coolidge signed. Although this legislation did not achieve everything the railway unions wished, it did give official recognition to the right of collective bargaining which was significant enough to have the National Association of Manufacturers oppose it despite the wishes of the railway industry. This Act which covered all railway employees had the support of the American Federation of Labor despite the fact that such support was at direct odds with the principle of voluntarism.

In 1932 on the eve of the New Deal, the AFL was close to being a broken down organization which was losing members rapidly and had neither the finances, the structure, nor the will to recoup its losses. Nevertheless, in that very year Congress passed the Norris-LaGuardia Act ending "government by injunctions" by making it extremely difficult for an employer to secure an injunction from a federal court in a labor dispute; and by denying federal court enforcement of yellow-dog contracts. Thus at the bottom of its fortunes, the AFL won the greatest legislative triumph of its career.

Labor Under the New Deal

The Roosevelt Administration, which came to power in 1933, brought gains to labor which were unprecedented in American history. In the wake of such legislation as the National Recovery Act, the National Labor Relations (Wagner) Act, and the amendments to the Railway Labor Act, trade union organization increased to an all time high, which, with the final impetus of war accompanied by an unparalleled shortage of labor, drove union membership to a figure of 15,000,000.[27]

The NRA Period

The first great New Deal law, the National Industrial Recovery Act may be regarded as a sort of general handout to the different pressure groups in the country. Business and agriculture were encouraged to plan scarcity in order to raise prices, and labor was given the right to organize without management interference. Labor's right was not enforcible to a very important extent, but energetic unionism took immediate advantage of it. Gambling the last $75,000 in the miners' union treasury, John L. Lewis sent expert organizers throughout the country's coal fields and within three months had enrolled 600,000 coal miners including those in the previously impregnable anti-union strongholds of Kentucky and southern West Virginia. The International Ladies Garment Workers' Union resurrected and expanded itself as did the Amalgamated Clothing Workers in the men's clothing industry. Unionism sprang up in the mass production industries, unaided, unguided, and confused; for if some organizations sprang into action under the magic of NRA, most of the AFL lay quiet and asleep. Not until after considerable prodding did AFL organizers appear on the scene to help in abetting unionization in previously unorganized industries. Then, in industries, such as rubber and automobiles, where no AFL affiliate had general jurisdiction, the Federation chartered directly AFL-affiliated or "federal" locals.

Without a central organization, however, these locals were often ineffectual. Moreover, craft unions of carpenters, electrical workers, machinists, etc., claimed the right to, and often did, demand that craftsmen in newly organized federal locals be turned over to them. The effect was usually to destroy the federal local and to estrange the transferred craftsmen from the labor movement until organizations suited to their purposes were founded.

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[27] Discussion of legislation on collective bargaining is reserved for Part VI.

In the steel and meat packing industries, AFL unions did exist. The Amalgamated Association of Iron, Steel and Tin Workers, however, had an unbroken record of failures since the Homestead strike in 1889, and its leadership had neither the resources nor the capacity to undertake a large-scale organizing drive. Except for a short World War I interval, the Amalgamated Meat Cutters and Butcher Workmen had never penetrated the major meat packing centers. Until revitalized in the late 1930's, it appeared content to confine its organization to the small packing establishments and to retail butchers.

POWER AND STRUCTURE CONFLICT

Failure on the part of the Federation to do a better job resulted in considerable criticism both within and without its ranks. Led by John L. Lewis, a growing clamor developed within the AFL for unionization of the mass production industries on an industrial rather than on a craft basis. Jealous of their power and fearful of what the influx of large numbers of semiskilled and unskilled workers would mean to their status, the craft union leaders declined to accept industrial unionism for the unorganized mass production industries.

After two attempts at compromise in preceding conventions, the stage was set for the big blow-up at the 1935 AFL conclave in Atlantic City. Charging that the AFL leadership "seduced me with fair words," Lewis demanded that the Federation grant industrial union charters in mass production industries. He expressed fear based on experience in the twenties that lack of unionization in steel would endanger the new union movement in the coal mines because of the large-scale ownership of coal mines by steel interests. Moreover, Lewis realized that the influx of new recruits from industrial unions would increase his prestige and power within the AFL.

The craft unionists, however, had the votes. Lewis' proposal was voted down. The issue was fought in terms of craft versus industrial unionism, but the basic issue was power, and the craft unionists held on to tradition and control.

Even before the 1935 convention was over, the industrial union group led by Lewis, Dubinsky of the Ladies Garment Workers' Union, and Hillman of Amalgamated Clothing Workers (and including unions in the oil, textile, and metal mines industries) met and formed the Committee for

Industrial Organization for the avowed purpose of organizing unorganized workers within the AFL. The original unions were soon joined by others such as the rubber, flat glass, automobile, shipbuilding, and electrical appliance workers' unions, who had pleaded in vain with the AFL for industrial union charters. The CIO immediately offered the AFL $500,000 to organize the steel industry. When the latter's Executive Council turned it down, Lewis succeeded in inducing the leadership of the virtually dormant Amalgamated Association of Iron, Steel and Tin Workers to put itself in a receivership to a newly organized Steel Workers Organizing Committee headed by Philip Murray, then vice-president of the United Mine Workers.

The AFL viewed these developments with alarm. Its Executive Council ordered the CIO to disband. When the latter refused, and Lewis resigned as a vice-president of the AFL, the AFL Executive Council suspended the CIO affiliates for "promoting dual unionism." The haste with which the Executive Council acted and the probable lack of constitutionality in its suspension were not seriously challenged by the CIO unions, except the Ladies Garment Workers' Union.[28] The CIO group had given up the possibility that mass production industries could be organized within the framework of the AFL. Hence when the AFL convention met in 1936, the CIO unions were not represented and the two-thirds majority required for their expulsion by the AFL constitution was easily obtained from the delegates present.

THE CIO IN ACTION

Steel

The CIO drive in steel was put on with tactics and a flair for showmanship not heretofore demonstrated in American labor history. The companies retaliated to the CIO drive by nation-wide newspaper ads condemning unionism and by forming company unions. Both played into the hands of the CIO. The newspaper ads gave the new union all the publicity it needed and the language of the ads was so extreme as to alienate the public. The passage of the National Labor Relations (Wagner) Act in 1935, and the reëlection in 1936 of the Roosevelt Administration, with which the CIO had allied itself, further aided the drive.

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[28] In 1935, the AFL constitution said nothing about Executive Council jurisdiction to suspend an affiliate. Unions could be expelled only by a two-thirds convention vote. If the CIO unions had been represented at the 1936 convention, no two-thirds vote would have been possible. The 1936 convention was reminded by several delegates that the Executive Council was "in such a hurry" to suspend the CIO that the procedure was questionable. Mr. Matthew Woll, leading exponent of the Executive Council viewpoint, later defended the suspension as follows: "The fact is that if the Council had not acted there would have been possible disintegration within the American Federation of Labor which would have been disastrous. The Council acted not so much to punish those who had formed the CIO, but rather to prevent disintegration from within and perhaps a greater danger than confronted it." *The Hat Worker* (June 15, 1939), p. 11.

Toward company unions, Philip Murray, leader of the CIO drive, adopted a new tactic. Instead of regarding them as archenemies, he saw company unions as a training ground. The CIO people attacked them by trying to get control and succeeded in a large measure. The United States Steel Corporation's money spent for company union agitation frequently served to promote the CIO. By January 1937 it was apparent that the new steel union could close down Carnegie-Illinois, U. S. Steel's biggest subsidiary, if it so chose.

At this point, probably through the friendly offices of President Roosevelt and Senator Guffey of Pennsylvania, Myron Taylor, chairman of the board of U. S. Steel, and John L. Lewis were brought together. The result was an agreement recognizing the CIO as bargaining agent for its members in all U. S. Steel subsidiaries in the iron and steel industry. The arch opponent of unionism thus came to an agreement with a new CIO union, a triumph for the latter that insured its existence.

The CIO drive in steel was temporarily slowed down by the defeat of its recognition strikes against the major "Little Steel" companies,[29] but the union came back in 1941 to win National Labor Relations Board elections in these concerns. Today under the name of the United Steelworkers of America, it has a membership of approximately 900,000 and contracts with nearly all the major steel producers, as well as with numerous companies in related metal and other industries.

Autos, Rubber, and Other Industries

While the steel drive was getting under way, labor erupted in the rubber and automobile industries. These unions were not started from the top down as in steel but grew straight from the rank and file. A memorable series of sitdown strikes in General Motors and Chrysler resulted in recognition for the United Automobile Workers in 1937. Although Ford struck down the United Automobile Workers in that year, he yielded and signed a union shop agreement after a vigorous organization campaign and strike in 1941. The UAW then expanded into the rest of the industry as well as into aircraft and agricultural implements until today it has a membership of approximately 1,000,000.

CIO unions also succeeded in organizing the basic rubber industry and the packing houses and stockyards in the large centers as well as the bulk of the electrical appliances. The effect was not only to bring unionism to millions of workers but also to galvanize the AFL into action. The old adage that a little competition is good for everybody is true in the union movement as well as in business. Forced to meet an energetic rival for the first time since it struck down the Knights of Labor, the AFL and its constituent unions put on organizing campaigns of its own which soon yielded it a membership in excess of the CIO. Of the 15,000,000 organized employees in 1948, the AFL could boast of nearly half, the CIO of approximately 6,000,000, the remainder being in unaffiliated organizations.

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[29] Bethlehem, Republic, Youngstown, and Inland, all giant corporations.

After the CIO had successfully established itself in the mass production industries, numerous AFL-CIO discussions occurred, some of which were initiated by President Roosevelt or members of his administration in an effort to bring about labor unity. They always failed. Year by year prospects for success dimmed as each organization developed its vested interests and encroached upon the jurisdictional territories of the other.

In 1938 the CIO set up a permanent organization, the Congress of Industrial Organizations. The International Ladies Garment Workers' Union, one of the CIO's founders, however, declined to enter the permanent body and after two years of independence returned to the AFL. President Dubinsky of the ILGWU charged (with considerable evidence) that the main stumbling blocks to labor unity were John L. Lewis and the Communists in the CIO, but certainly other factors, the establishment of rival unions by each group, the interest of labor office holders in maintaining their vested interests and jobs, and the standpatism of old line AFL leaders, were also important.

THE RAILWAY UNIONS

During the thirties the railroad unions made considerable gains. The 1934 amendments to the Railway Labor Act of 1926 converted that law into a pro-union act and aided the standard railway labor unions in completely recouping their losses of the twenties. By 1940 these organizations had almost completely organized the railway industry. In addition, they secured special social security legislation which is superior in many particulars to the general law.

THE WAR YEARS

World War II was a period of expanding union membership. Soon after our entrance into the war, a National War Labor Board was established with official union and management representation, the former divided equally between AFL and CIO. Despite the stresses and strains, the NWLB maintained a high record for peaceful settlement; and apart from numerous "quickie" strikes, labor observed its no-strike pledge. The tight labor market and expanding industry aided union membership to grow to an all time high. But the large number of small stoppages, combined with the few large ones, particularly the miners' strikes under John L. Lewis, saw labor's public opinion poll go steadily downward.

The end of war and the lifting of economic controls resulted in a psychological outburst on many fronts. Labor's response was strikes—1946 was the greatest strike year in American history in terms of man-days lost. Whosever the responsibility, the public blamed labor; the result contributed to the Congressional election sweep of the Republicans in 1946 and to the passage of a union-control law, the Taft-Hartley Act, in the following spring.

Despite organized labor's decline in public opinion and Congress, however, it won great gains in money wages. Each year after the war wages rose dramatically—18½-cent-, 15½-cent-, and 13-cent-per-hour increases spread successively through the economy. In spite of wide variations, the pattern of increases granted by such industrial giants as United States Steel or General Motors to equally large CIO unions was followed by hundreds of small concerns and unions in collective bargaining. Yet postwar rising prices reduced the wage gains to little or nothing in terms of purchasing power. Labor fought postwar inflation by matching it with wage gains—which aggravated it.

Communist Unionism, 1920–1948

The Russian revolution has had profound effects upon the American labor movement, although the effects have undoubtedly been less than in other countries. The American Communist party was organized in 1919 and secured the adherence of William Z. Foster, a brilliant organizer who had led the great unsuccessful steel strike in 1919. After a trip to Moscow, Foster was thoroughly indoctrinated and has spent the rest of his life in the service of the Communist Party, of which he became national secretary.

COMMUNISM IN THE 1920'S

In 1921, Foster organized the Trade Union Educational League, an avowed purpose of which was to bore within and take over existing trade unions. Foster and his associates chose as their major attack the needle trade unions of New York, a natural selection in view of the large number of Slavic and Jewish immigrants in this industry; their bitter remembrance of life under the czars; and their naturally friendly sentiment toward a government which proclaimed itself socialist and equalitarian.

Foster's success was immediate. One by one the large New York locals of the Ladies Garment Workers' Union fell into his camp, until the only major local that stood out against him was the powerful Cutters' Local No. 10, oldest in the ILGWU. This local was led by a brilliant, young Polish-born Jew, David Dubinsky, who was able to convince his fellow unionists that Foster was more interested in promoting the Communist Party than in building up the union.

Between 1922 and 1928 the ILGWU was nearly wrecked by intra-union strife, but in 1926 the Communists preferring "militancy" to "arbitration" pulled out 35,000 New York workers on strike and led them to a crushing defeat at the end of which only the Cutters' Local 10 was solvent. From then on that union has been featured by Dubinsky's rise to power and the gradual but total elimination of the Communists.

In the fur industry, however, the Communists made their only great gains in the pre-New Deal period. Under the leadership of Ben Gold, they secured the almost complete control of the union, the International Fur and Leather Workers (CIO), which they have maintained to this day.

In 1929 the International Communist Party changed its position from boring within to non-coöperation with democratic groups. The American party thereupon organized the Trade Union Unity League as a rival organization of the AFL. Except for the fur workers, it was largely a paper organization. It did take over agitation in a number of troubled areas during the depression, however, and in the early NRA period, it sent out organizers who attempted, mostly unsuccessfully, to establish unions.

The total bankruptcy of the Moscow policies of fighting democratic groups more severely than totalitarianism of the right became strikingly clear with the advent of Hitler in Germany. In 1935 the party line was changed once more. The result was the "popular front" in Spain and France. In America, "Revolutionary utterances were discarded for a verbal wardrobe of conformity and respectability; Mr. Earl Browder, head of the party in the United States, uncovered the historical fact that the Communists were the real inheritors of American democracy and spoke approvingly of Thomas Jefferson and Abraham Lincoln. 'Fellow travellers' were recruited from all who—knowingly or unknowingly—chose to travel."[30]

INFILTRATION INTO THE CIO

The trade union aspect of this party-line official integration of Communism with democracy marked the first successful entrance of Communists into the American labor movement. From 1935 to 1937, Communist groups concentrated their efforts on AFL unions, but, by the latter year, saw in the CIO a more fertile ground and accordingly transferred their efforts en masse to that federation. In so doing they received unexpected assistance from an old enemy, John L. Lewis. During the twenties Lewis had fought as "reds" not only Communists but everybody else who opposed him. But now he looked upon them as pawns whom he could use to aid the CIO. The new CIO was greatly in need of organizers and the Communists offered to supply them. Against the warning advice of David Dubinsky, Lewis accepted their assistance and thousands of CIO jobs were filled via the Communist Party.

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[30] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 240.

That party members made excellent organizers no one can deny; but they used their positions to infiltrate in the unions, to take over strategic positions, and to secure CIO charters for organizations of their own creation with few members other than their Communist officers. However cleverly disguised, for them the party was always first, the union second. An uneasy truce between Communist and non-Communist elements in the CIO existed until 1939. Then came the Nazi-Soviet non-aggression pact and World War II.

As suddenly as they had joined democratic elements, the Communists throughout the world abandoned them. Roosevelt, whom they had supported in 1936, was dissected as an imperialist warmonger in 1940. Everywhere the Communists opposed the defense program, and promoted strikes, whenever possible, to interfere with it.

Here again, John L. Lewis proved a useful ally to the party. He was a confirmed isolationist with a gradually growing hatred of President Roosevelt which began in 1937, when the President declined to support the Little Steel strike as strongly as Lewis wished him to. Lewis thus opposed Mr. Roosevelt in 1940 for reasons very different from those of the Communists, but nonetheless they both arrived at the same spot. When Lewis announced that he would support the Republican candidate, Wendell Willkie, and would resign from the presidency of the CIO if Roosevelt were reëlected, his support came mainly from the Communists in the CIO. True to his promise Lewis resigned at the CIO convention following the 1940 national elections, and Philip Murray succeeded him.

Until June 1941 Lewis held the balance of power in the CIO. Not only was Murray opposed by the vocal left-wingers, but he became ill. The CIO was run by former Lewis appointees while Murray convalesced through 1941. Then came the invasion of Russia by Germany and the sudden change (in the minds of Communists) from an "imperialistic war" to that of a "proletarian war against Fascist aggression."

More Party-line Shifts

Mr. Roosevelt, who on June 21 was a "Wall Street imperialist and warmonger" in the Communist *Daily Worker* became "our beloved commander in chief behind whom all must unite," three days later. Communist support of John L. Lewis, who maintained his isolationist position, disappeared as if by magic. Philip Murray, who in his own words, "was in the estimation of some people in 1940 down in the bottomless pits of hell" because he had supported the defense program, suddenly found that "there came a day, the 23rd of June, and I was still supporting my country. I was dragged by these same citizens from the bottomless pits of hell and lifted to a veritable sainthood."[31]

Henceforth, Murray effectively assumed the helm of the CIO, and remained also president of its strongest affiliate, the Steelworkers. Lewis gradually dropped into the background of CIO affairs, and then in 1943, took the United Mine Workers out of the organization which it had done so much to create. With Lewis went "District 50," a nation-wide branch of the Mine Workers which was set up originally for coke and coal by-product workers but was later expanded to take in any industrial group which it could organize. District 50 had thus become a sort of minor labor movement appendage of the United Mine Workers.

Reasonable coöperation between the AFL and the CIO in an all-out war effort featured the war years 1942 to 1946, with the Communists preaching full coöperation with industry and government. Then the party line changed. Earl Browder, the protagonist of capitalistic coöperation, was ousted, and William Z. Foster, orthodox exponent of the class struggle, was named national secretary. Relations between the left and the right in the CIO grew steadily worse as the right wing backed the Marshall plan for European reconstruction and opposed the third, "Progressive," party of Henry Wallace, while the left opposed the former and promoted the latter. Aided no little by the anti-Communist requirements of the Taft-Hartley Act and the dynamic leadership of youthful Walter Reuther of the United Automobile Workers, the right wing of the CIO administered a series of drubbings to the Communists.

Reuther completely ousted the Communists from the auto union, and then opened his union's doors to many locals seceding from the Communist-dominated Mine, Mill and Smelter Workers', Electrical Workers', and Farm Equipment Workers' unions. Joseph Curran, president of the National Maritime Union (CIO), and Michael Quill, president of the Transport Workers Union (CIO), both at one time fellow travelers of the Communists, broke with the party and wrested control of their unions from it.

For a time, the Communist-dominated unions threatened to leave the CIO.[32] Philip Murray was bitterly criticized in the *Daily Worker*[33] and mention of CIO was dropped from party-line union literature.[34] By mid-1948, however, these unions had apparently decided to remain within the CIO, perhaps because they feared they would lose further membership as a separate organization. Early in 1949, however, the CIO leadership was threatening to expel Communist-led unions, and a split in the CIO appeared imminent. The tortuous course of the party line apparently was leading back to dual unionism.

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[31] *Steel Labor* (March 1948).

[32] In a confidential, unpublished memorandum to shop stewards in March, 1948, the chiefs of Local 19, United Office and Professional Workers (CIO), a staunchly Communist-dominated group stated: "We desire no split and reject ideas of leaving CIO, but also realize that real unity is based on agreement of fundamental program. Must point out CIO also born as the result of a "split" AFL. This split advanced the interests of the unorganized workers by bringing them into the labor movement."

[33] Said Murray, referring to his opposition by the left-wingers over the third party and the Marshall Plan: "I am evidently destined to be one of the damned."

THE IMPORTANCE OF COMMUNISM

Why should Communist control of unions be of importance? The answer is apparent in history. It stems from a two-pronged source. First, the Communist Party exercises a discipline over its members equaled only by other totalitarian forms (Fascism, Nazism). A Communist cannot remain such and act as an individual. He cannot be a union member first, and a Communist second. Therefore, whenever union interests and Communist interests are diverse—as they often are—the union is sacrificed on the altar of Communism. The record is replete with instances in which the economic interests of union members have been disregarded for the political interests of the party: opposition to pro-labor, but anti-Communist candidates for office (former Senator Robert M. LaFollette, Jr., of Wisconsin, is a striking example); political strikes; financial support for party "fronts," etc.

The other reason for concern about Communists in the labor movement is that "it can be demonstrated to any reasonable man that the only determinant of Communist policy is Russia's interests. No example exists of American Communist policy or activity which upon full analysis, is not revealed as being designed to help the Stalin regime. This ranges from the Communist party's position on what to do about the atom bomb, to ruthless suppression of strikes during the period when American industry was producing arms for the Red Army."[35]

Finally, it should be noted that Communists have never had a mass following in the American labor movement. Their strength is concentrated in approximately twelve unions, but their control even there is based on minority manipulation, and today they are more than ever on the defensive. Until recently their exposure has been hindered as much by indiscriminate "red-baiting" of anything or anyone radical or liberal as by miscomprehension of the anti-democratic character of Communism. Labor leaders were among the first to recognize their lack of identity of interest with Communism. By and large, they can be depended upon to deal with this problem.

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[34] E.g., the United Electrical, Radio and Machine Workers no longer printed CIO on dues buttons.

[35] M. S. Pitzele, "Can American Labor Defeat the Communists?" *Atlantic Monthly* (March 1947), p. 30.

Labor Disunity

Prior to November 1948, the American labor movement presented a curious paradox. Despite an all time high membership of 15,000,000, union leaders appeared defensive and wary of the future. The strikes of 1946 had left many financially weak and uncertain that their members would respond effectively if future strikes were called. The enormous wage gains achieved after World War II were largely offset by an inflation which, in turn, was aggravated by the wage increases themselves. Obviously, future wage increases would have similar aggravating effects, so long as inflationary trends were current. Despite the fact that the economics of inflation were clear to most labor officials, they continued to press for higher wages. For if labor leaders declined to press for wage increases, then impatient members might replace them with ever-present rivals anxious to transfer from the shop to union office. Or, what was feared most, the rank and file might transfer its allegiance to a rival union.

Rival Unionism

In a very real sense, there is not one American labor movement, but several. The split between the AFL and the CIO has developed two mighty, evenly matched labor federations, which often pursue diverse policies, if not objectives. Coöperation between AFL and CIO is rarer than conflict. Labor's "divided house" shows no signs of uniting, despite some effective political coöperation in the 1948 elections.

In addition to the basic AFL-CIO conflict, however, American labor unions are further split. Neither the CIO nor the AFL have been closely knit entities. The split in the former between Communists and non-Communists has been even greater than that between the CIO and the AFL. The Communists have been virtually an independent labor movement within the CIO, acting distinct from, and often in defiance of, CIO policy.

The AFL splits are not so sharp, but they exist. Between the conservative building trades unions and the broad socialist-minded garment unions, the AFL contains organizations whose policies and programs differ widely.

Then, too, a substantial segment of organized labor is outside the AFL and the CIO. Foremost among these are the Big Four railroad brotherhoods, which have operated independently since their existence. The Big Four and the majority of the other railroad unions are members of the Railway Labor Executives Association, which coördinates railway union policies. Although most railway unions, except for the Big Four, are AFL affiliates, they follow railway, not AFL, policy in case of conflict between the two. Railway unions, independent or affiliated, are a separate labor movement unto themselves.

John L. Lewis remains a great force outside either the AFL or the CIO. Since leaving the CIO in 1943, his United Mine Workers has remained independent, except for a short reaffiliation with the AFL in 1946–1947, which ended when Lewis failed to win AFL leaders to his political program. With District 50 of the United Mine Workers organizing workers in any industry, Lewis adds up to still another labor movement.

Finally, there are numerous independent unions. They vary from the International Association of Machinists, which claims 700,000 members in numerous industries, and which left the AFL after a jurisdictional dispute in 1944, to much smaller organizations which were once company unions. Each is different; each has its own policies.

Effects of Rival Unionism

One effect of rival unionism has already been noted. Contests for the right to represent workers are keen. As a result many minor decisions are made in which fear of the rival union is decisive. For example, in 1948 the AFL meat packing union and the major meat packers agreed to a 9½-cent-per-hour wage increase. The rival CIO union held out for more, struck to secure it, and was forced to come back to work on company terms eight weeks later. Rival unionism can thus cause strife and unnecessary loss.

On the other hand, rival unionism acts as a spur to union leadership. The old adage that competition is good for everybody is not without truth in labor matters. The competition of the CIO brought the AFL out of the doldrums, and each continues to press the other to do a better job for its members.

Finally, the labor scene in America reflects the lack of class consciousness on the part of union workers. Only in a country where the labor movement remains primarily economic could it be so strong and yet so divided. Should American labor be welded together as a unified mass, it may well mean that the American people who are union members want to change some characteristics of both their unions and their environment; otherwise, the most in "labor unity" which can be expected is a loose federation of all groups along the lines of the AFL or the CIO.

Political Disunity

The disunity of American unions extends into the political field, but here it is not so great. Except for the Communists the basic labor political policies of 1948 did not differ materially from those of Samuel Gompers.

Gompers' "voluntaristic" philosophy advocated separation of unions and political parties—but not union aloofness from politics. Thus, under Gompers' leadership the AFL avoided involvement with any political party, but attempted to throw its weight to any candidate with a pro-labor record or platform, and against those considered anti-labor regardless of the party to which the candidate belonged.

The political program of most American unions has not varied significantly from the Gompers' tradition. True, the CIO has always been more active in support of political candidates and policies than the AFL, but the difference is one of degree rather than of kind. In 1943, the CIO organized a Political Action Committee, which played an important role in reëlecting Mr. Roosevelt for a fourth term. Although the PAC did almost become an appendage of the Democratic Party, it did support some Republicans. In essence, its methods amounted merely to a streamlining of the Gompers "reward your friends and punish your enemies" doctrine. For the PAC concentrated on electing candidates who had pro-labor records, and avoided any attempts to found a labor party. Even in New York State where the American Labor Party has existed since 1935, the ALP served, until its capture by the Communists in 1944, primarily as an endorser of candidates from the other parties. The Liberal Party, organized by non-Communists who left the American Labor Party in 1944, served the same purpose.

Following the passage of the Taft-Hartley Act in 1947, much talk of a new labor party commenced in union circles. The AFL established a Political Education League, which served to aid AFL members to determine which candidate of the two major parties was entitled to AFL support and which helped get out the vote in 1948. It therefore resulted in no basic change in the traditional AFL policy. And the CIO's PAC opposed the formation of a new party as ardently in 1948 as it did in 1944.

The most successful exponents of the Gompers "reward your friends and punish your enemies" position have been the railroad unions, which have built the most effective political lobby of organized labor in America. Operating through a coördinating body, the Railway Labor Executives Association, to which most railway unions belong, railway labor has pursued an adroit policy which permits the support of any legislator, no matter what party and no matter how the legislator votes on general issues, so long as he votes "right" on railway labor issues. With a membership of one million, which is strategically located in almost every Congressional District, and which usually votes in a body in the primaries where small numbers count most effectively, railway labor has justly earned the reputation of delivering the votes. This fact, plus the importance of railway labor in many rural areas, which are traditionally "antirailroad," has won railway unions the support of legislators whose general record is conservative and anti-labor.

In turn, by supporting pro-railway labor legislation, conservative legislators are assured of vital labor support without alienating a sizable part of their conservative constituents who are not adversely affected by such legislation, as they would be by pro-general labor legislation. As a result of this policy, railway labor has achieved a favored status in social security, in collective bargaining legislation, as well as a position which is not likely to worsen no matter which of the major political parties is in power.

The main criticism of the traditional Gompers policy is that it permitted a wide latitude of thinking as to what was a "pro-labor" record. In many campaigns labor leaders have taken opposing sides. Even under the New Deal, such labor chiefs as John L. Lewis, president of the United Mine Workers, and William Hutcheson, president of the Carpenters, supported Republican candidates. Unified labor support of one party cannot be secured when neither of the two great political parties contains all liberals or all reactionaries; nor when organized labor itself is split into so many camps.

The only labor group to support a challenge to the Gompers position in 1948 was the Communists. According to President Philip Murray of the CIO, they were responsible for forming the new Progressive Party, which sponsored the presidential candidacy of Henry Wallace. Among organized labor only the Communist-controlled unions supported that party. Of special significance was the fact that the Progressive Party until the very last appeared to be concentrating its candidates for the United States Senate and the House of Representatives in those areas where candidates with pro-labor, but, to the Communists, anti-Russian, records were running. The Progressive Party, while declaring itself labor's friend, worked hardest at first to defeat those legislators who have proved themselves pro-labor.[36]

Prior to the 1948 elections, a number of leading non-Communist liberals in the labor movement, and especially Walter Reuther, president of the United Automobile Workers (CIO) were planning the formation of a new liberal party which would exclude Communists. The surprising victory of President Truman and numerous labor-backed candidates in that election caused these plans to be shelved, at least temporarily. Labor appeared content to follow Sam Gompers' maxim of working with its friends in existing parties for some time to come.

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[36] Specific examples were Progressive opposition to Democratic Senatorial candidates in Minnesota and Illinois, which at one time seemed to assure reëlection of Republicans Ball and Brooks, whose records included votes nearly always contrary to the labor position. Numerous other examples could be cited. Later, when their cause seemed lost, the Progressives abandoned this policy.

The 1948 elections found labor united politically to a surprising degree. Despite Communist union support of the Progressive Party and some leadership support for Republican Dewey from leaders of the Carpenters', Miners', Teamsters', Building Service, and Locomotive Engineers' unions, the great bulk of labor lined up behind President Truman. Moreover, political coöperation among AFL, CIO, railway, and independent unions at the grass roots level was frequent. Apparently, structural disunity does not necessitate political disunity.

Basic Labor Statistics

We interrupt our discussion of the nature of labor unions and collective bargaining at this point to set forth the basic data with which the student of labor economics must be familiar in order to consider questions in their proper perspective. In this chapter, the statistics are given for size and composition of the labor force, national income, productivity, percentage of labor unionized, etc. Such knowledge is essential for proper understanding and correct analysis.

The Labor Force

The labor force may be defined as including all persons who have reached a given age and who, in a given week in which the labor force is measured, are either employed or actively seeking work. Employed persons are defined as those at work on a government or private job, including the armed forces, self-employed, and unpaid family workers; or those who have a job but are not at the moment working because of vacation, illness, labor disputes, bad weather, or temporary layoffs with definite instructions to return within 30 days. Unemployed persons are those not at work, but actively seeking work; or those out of work and not actively seeking work because of indefinite layoff or one lasting more than 30 days, or because of temporary illness or the belief that no work is available in the community.[1]

The labor force is therefore only one segment of the population. The other population segments are the homemakers (housewives), the students, and a final miscellaneous category which includes those too young or too old to work, the indigent, incapacitated, and any others who for one reason or another find it impossible to seek or to secure work.[2]

The labor force is not a fixed group. In July there are usually three or four million more job seekers than in January, as students seek jobs during summer vacation and housewives leave home in order to earn extra income in seasonal farm industries. December is another peak period, for it is the time when persons take part-time jobs in department stores and other businesses experiencing Christmas demand. Professor Slichter estimates that in one year "there are usually about ten million persons who have been in the work [i.e., labor] force only part of the year. Thus, if the work force averages 55 million persons, it will have had during the course of a year 65 million or more different persons in it."[3]

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[1] L. J. Ducoff and M. J. Hapgood, *Labor Force Definition and Measurement* (New York, Social Science Research Council, 1947), pp. 9–10.

[2] J. D. Durand, *The Labor Force in the United States, 1890–1960* (New York, Social Science Research Council, 1948), p. 1.

The labor force is also affected by cyclical fluctuations. If the chief breadwinner becomes unemployed during a depression, other members of the family may seek jobs. They may remain in the labor force at least as long as the head of the family is unemployed, or employed at an income below the previous family standard. Hence, when as in 1933, an estimated 15 million persons were unemployed, an inflation in the labor force of from one to three million may have been involved.[4]

This traditional view of the inverse reaction of the supply of labor to demand may, however, be incorrect. One recent careful investigator has come to the tentative conclusion that any influx in depressed times is offset by those who "withdraw after becoming discouraged by the severe competition for jobs and by the low pay and harsh discipline that prevail in work that is available."[5] The decennial census of 1930 (see Table 1) does not confirm either theory, since it was taken when the depression was still quite young. It does, however, show a slight drop in the labor force, but not one of any significance.

> An unusually heavy demand for labor may also affect the size of the labor force. Thus our civilian labor force at the peak of the [second World] war effort included persons who had retired because of old age or physical handicaps, married women normally in housework, boys and girls not yet graduated from school—altogether several million who under normal peacetime conditions would not have been members of the labor force.[6]

Despite these seasonal and cyclical variations, the fact remains that "the outstanding characteristic of the labor force is its stability of size relative to the population." Indeed,

> the propensity to be "in the labor force" seems to be one of the most stable elements in the labor market, varying hardly at all except in the long, slow trends, requiring years to consummate. It may be that the peacetime propensity is based not upon impulse, but upon deeply rooted habits, on the size and composition of families, on institutions of child care, education, and old age dependency, on the concentration of popu-

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[3] S. H. Slichter, "More Job Givers Wanted," *Fortune* (October 1945).

[4] J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 540.

[5] Clarence Long, "The Labor Force and Economic Change," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 349.

[6] J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), pp. 540–541.

> lation, and on the structure and geography of industry. The labor force evidently does not expand or shrink under ordinary economic pressures.[7]

Even when the economic pressures are severe, such as during the depression of the 1930's or during World War II, the end of the period of strain appears to be followed by a return to labor market normalcy. Thus "the decline in the labor force in the months following VJ Day was nothing short of remarkable. No less than 5½ million persons had departed by April 1946."[8]

Growth and Composition

The growth of the labor force and some of its long term trends are shown in Table 1. What especially stands out is the sharp rise in the labor force under the pressures of World War II, and the equally sharp recession to normalcy once these pressures had subsided. Except for this, the data confirm that the outstanding characteristic of the labor force is its stability in relation to the population.

Table 1

Population and Labor Force by Sex—United States, Selected Years 1890-1946*

Year	*Population (Millions)*	*Labor Force[a] (Millions)*	*Labor Force as Per Cent of Population*	*Per Cent of Labor Force Male*	*Per Cent of Labor Force Female*
1890	62.6	23.3	37.2	82.8	17.2
1900	76.0	29.1	38.3	81.7	18.3
1910	92.0	37.4	40.6	80.1	19.9
1920	105.7	42.4	40.1	79.6	20.4
1930	122.8	48.8	39.8	78.0	22.0
1940	131.7	53.3	40.5	75.6	24.4
1942	134.8	60.2	44.8	76.4	23.6
1945	139.2	65.1	46.8	71.3	28.7
1946	141.2	60.8	43.0	73.7	26.3

* Sources: *Population*—1890–1940, decennial census of the U. S.; 1942–1946, estimates of U. S. Bureau of Census. *Labor Force*—Census data adapted by J. F. Dewhurst and associates, ***America's Needs and Resources*** (New York, The Twentieth Century Fund, 1947), pp. 542 ff.; and J. D. Durand, ***The Labor Force in the United States, 1890–1960*** (New York, Social Science Research Council, 1948), *passim;* also U. S. Bureau of Census, *Current Population Reports.*

[a] Data prior to 1940 includes "gainfully occupied," a somewhat, but not significantly, wider term than "labor force"; also data prior to 1940 includes children 10–14 who are not included thereafter, but very few such children were found in labor forces by 1940.

Another factor which stands out in the data in Table 1 is the gradual but steady increase in the number of women in the labor force.

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[7] Clarence Long, *The Labor Force in Wartime America* (New York, National Bureau of Economic Research, 1944), pp. 23, 47.

[8] Clarence Long, "The Labor Force and Economic Change," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 330.

> This trend of women into gainful occupations outside the home doubtless is closely associated with a number of other changes, such as smaller families, the transfer to the factory of much productive work formerly done in the home, the increase in labor saving equipment and conveniences in the home, and the increasing desire of women for economic independence. Increased opportunity for women to secure work outside the home came with the increased openings for women in the professions and in clerical, sales, and kindred pursuits.[9]

Two other significant labor force trends are not shown in Table 1. They relate to the age and racial composition of the labor force. The labor force has become older since 1900, partially because of a decline in child labor, resulting from changing industrial mores and child labor legislation, and from the fact that the rate of population increase has been decreasing because of a decline in birth rates. At the same time, the proportion of persons over 65 who are in the labor force has declined with the rise of social security and retirement plans. Thus in 1940, gainful employment of children under fourteen had almost ceased, and less than half of the men over 65 were employed. In contrast, in 1900, 26 per cent of all boys 10–15 years old were employed and more than three-fourths of all men over 65 years of age were still working.

An analysis of the racial composition of the labor force also yields significant results. In 1940, 5,626,000 or approximately 10 per cent of the labor force were classified as "non-white," i.e., Negro, Oriental, or American Indian, the great bulk being Negro. Although the gap between the characteristics of the non-white and white members of the labor force has been considerably narrowed since 1890, it remains significant. Thus, non-white persons go to work at an earlier age and remain in the labor force to a greater extent after 65 years of age; non-white women have a greater tendency to remain in the labor force after marriage; because of high mortality and heavy toll of disability on the job, non-white workers have a considerably shorter average working life. In 1940, "a non-white man at the age of 25 could expect to live about 36 years more and to spend about 30 years in the labor force. For a 25-year-old white man the expectancies were 43 years of life and 36 years in the labor force."[10] All these factors indicate the greater poverty among the non-white group. Similar disadvantages will be found for non-whites in industrial and educational statistics.

Occupational and Social-Economic Status

Table 2 shows the distribution of gainful workers by occupational divisions, 1870 and 1930. The sharp decline in the percentage of the labor force engaged in agriculture and the increases in manufacturing, clerical, and trade occupations are indications of the changing character of our economy. Although comparable data are not available for the years since 1930, there is no reason to believe that these occupational trends have not continued. One of their results has been the urbanization of the country, i.e., a sizable increase in the percentage of persons who live in cities as against those who dwell in rural areas. This in turn has created a greater number of persons who are potential union members.

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[9] U. S. Bureau of Census, *Comparative Occupation Statistics for the United States, 1870–1940* (Washington, 1940), p. 90.

[10] J. D. Durand, *The Labor Force in the United States, 1890–1960* (New York, Social Science Research Council, 1948), pp. 47–55.

Table 2

DISTRIBUTION OF GAINFUL WORKERS BY OCCUPATIONAL DIVISIONS, 1870 AND 1930*

Occupational Division	*Percentage Distribution*	
	1870	*1930*
Total	100	100[a]
Agriculture	53.0	21.4
Forestry and fishing	0.5	0.5
Extraction of minerals	1.4	2.0
Manufacturing and mechanical industries	20.5	28.9
Transportation and communication	4.2	7.9
Trade	6.8	12.5
Public serving (not included elsewhere)	0.7	1.2
Professional service	2.6	6.7
Domestic and personal service	9.7	10.1
Clinical occupations	0.6	8.2

* Source: Census data adapted by J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 546.

[a] Discrepancies in sum due to rounding.

Table 3, showing the social-economic status of gainful workers and persons in the labor force, 1910 and 1940, emphasizes the findings of Table 2, particularly in showing the increased importance of the professional and clerical groups and the decreased importance of farm workers and farm managers and owners.

Breaking down the data in Table 3 by race, and adding thereto estimates of the racial-occupational grouping of the labor force, provides conclusive evidence of the disadvantageous status of the Negro and other non-white in the labor force. For example, more than 95 per cent of the professional and proprietary groups are white, and remained so even at the height of the war boom when Negroes received their greatest opportunities for employment. Likewise, over 98 per cent of the clerical and sales force in the country is white. Although Negroes comprise only approximately 10 per cent of the total labor force, more than 50 per cent of the country's domestic service workers and more than 25 per cent of the non-farm, unskilled laborers are Negroes.[11]

Table 3

SOCIAL-ECONOMIC STATUS OF GAINFUL WORKERS AND PERSONS IN THE LABOR FORCE, 1910 AND 1940*

Group	*Percentage of Total Gainful Workers*		*No. in Labor Force*[a] *(Millions)*
	1910	*1940*	*1940*
Total[b]	100	100	52.0
Professional persons	4.4	6.5	3.4
Proprietors, managers, and officials	23.0	17.8	9.2
Farmers and farm managers	16.5	10.1	5.3
Others	6.5	7.6	3.9
Clerks and kindred workers	10.2	17.2	8.9
Skilled workers and foremen	11.7	11.7	6.1
Semiskilled workers	14.7	21.0	10.9
Unskilled workers	36.0	25.9	13.5
Farm laborers	14.5	7.1	3.7
Other laborers	14.7	10.7	5.6
Servants	6.8	8.0	4.2

* Source: Census data adapted by J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 549.

[a] Excluding new workers.

[b] Discrepancies in addition due to rounding.

Union Membership and the Labor Force

Table 4 shows union membership as a percentage of the labor force. In less than fifteen years since 1935, the percentage of the labor force which is unionized has more than tripled. Moreover, since the data for labor force includes the self-employed and those employed by their families, the unionized group is actually a much higher percentage of the potential unionized. It is likely that organized labor in America today includes approximately 33 per cent of those potentially organizable, and approximately 40 per cent of the non-farm labor force which is not self-employed are union members.

UNEMPLOYMENT

Data for the number of persons unemployed are sparse for the years prior to the great depression. The best available estimates together with

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[11] "War and Post-War Trends in the Employment of Negroes," *Monthly Labor Review*, **60**:1-5 (1945).

Table 4

Labor Force and Union Membership, Selected Years 1880–1946*

Year	*Labor Force*[a] *(Millions)*	*Union Membership (Millions)*	*Per Cent Labor Force Unionized*
1890	23.3	0.37	1.6
1900	29.1	0.87	3.0
1910	37.4	2.1	5.6
1920	42.4	5.1	12.0
1930	48.8	3.4	7.0
1935	50.5[b]	3.9	7.7
1940	53.3	8.5	15.9
1946	60.8	15.0[b]	24.7

* Sources: *Labor Force*—Table 1. *Union Membership*—Leo Wolman, *Ebb and Flow in Trade Unionism* (New York, National Bureau of Economic Research, 1936), pp. 229 ff.; and Florence Peterson, *American Labor Unions* (New York, Harper and Brothers, 1945), p. 56.

[a] Data prior to 1940 includes "gainfully occupied," a somewhat, but not significantly, wider term than "labor force"; also data prior to 1940 includes children 10–14 who are not included thereafter, but very few such children were found in labor forces by 1940.

[b] Estimated.

more reliable data for the pre-depression years are presented in Table 5. The estimate of nearly thirteen million unemployed for 1932 is conservative. Other estimates range as high as eighteen million. In any case, an economy which permits such a large proportion of its human resources to be without work is clearly endangering its very foundations.

Table 5

Unemployment and the Labor Force, Selected Years 1920–1946*

Year	*Estimated Unemployment (Millions)*	*Unemployment as Per Cent of Labor Force*[a]
1920	1.0	2.1
1921	4.8	11.2
1927	1.6	3.5
1932	12.8	24.9
1935	9.5	18.4
1937	6.4	12.0
1939	9.4	17.2
1942	2.7	4.3
1944	0.7	1.0
1946	2.3	3.7

* Sources: *1920–1939—Studies in Enterprise and Social Progress* (New York, National Industrial Conference Board, 1939), Pt. II, B, Table I, p. 36. (Data for 1920 corrected by authors because of indicated downward bias.) *1942–1946—Midyear Economic Report of the President* (July 21, 1947), p. 67.

[a] Prior to 1940, percentage is of "gainfully employed," a slightly different concept from "labor force."

Another significant revelation of the data in Table 5 is the average unemployment of more than two million in times of prosperity. Only at the peak of war production in 1944 did unemployment fall below one million. Generally speaking, economists consider the American economy to be in a "full employment" phase when unemployment of two or three million exists. Such unemployment will always be with us as a result of persons changing jobs, being seasonally or otherwise temporarily unemployed or out of work for various reasons at the time at which the unemployment census is taken.

The estimated unemployment for a particular period will of course depend on the definition of that term. As we shall see in Chapter 14 defining unemployment is not an easy task. For statistical purposes however we may state that persons who are temporarily out of jobs and actively seeking work are those unemployed. The numerous refinements of this definition which are necessary for exact analysis and policy will be left to Chapter 14, when we consider some of the theoretical problems related to unemployment.

National Income and Labor's Share

Table 6 shows the relation of national production, national income, and personal income for selected years, 1929–1946.

> *Gross national product or expenditure* is the market value of the output of goods and services produced by the Nation's economy before deduction of depreciation charges and other allowances for business and institutional consumption of durable capital goods . . . The Nation's economy . . . refers to the labor and property supplied by residents of the nation. Gross national product comprises the purchases of goods and services by consumers and government, gross private domestic investment and net foreign investment . . .
>
> *National income* is the aggregate earnings of labor and property which arise from the current production of goods and services by the Nation's economy. Thus, it measures the total factor costs of the goods and services produced by the economy . . .
>
> *Personal income* is the current income received by persons from sources, inclusive of transfers from government and business, but exclusive of transfers among persons. Not only individuals . . . but nonprofit institutions, private trust funds, and private pension and welfare funds are classified as "persons" . . . [12]

Besides showing the relationship of these concepts of national expenditures and income, Table 6 demonstrates the tremendous cyclical fluctuations in national product, national income, and personal income. Thus between 1929 and 1933, all three were almost halved, and it was not until

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[12] U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Survey of Current Business* (July 1947, supplement), p. 8.

Table 6

RELATION OF GROSS NATIONAL PRODUCT, NATIONAL INCOME, AND PERSONAL INCOME, 1929–1946*
(Millions of Dollars)

	1929	*1933*	*1937*	*1941*	*1946*
Gross National product (or expenditure)	103,828	55,760	90,213	125,294	203,679
Less: Capital consumption allowances	8,816	7,245	7,972	9,294	11,040
Depreciation charges	7,553	6,608	6,838	7,878	8,875
Accidental damage to fixed capital	413	275	304	273	404
Capital outlays charged to current expense	850	362	830	1,143	1,761
Equals: Net national product	95,012	48,515	82,241	116,000	192,639
Plus: Subsidies minus current surplus of government enterprise	−147	18	60	102	843
Less: Indirect business tax on non-tax liability	7,003	7,005	9,157	11,296	16,851
Business transfer payments	587	659	567	502	528
Statistical discrepancy	−80	1,235	−1,050	470	−2,101
Equals: National income	87,355	39,584	73,627	103,834	178,204
Less: Undistributed corporate profits	2,597	−2,428	−8	4,921	6,925
Corporate profits tax liability	1,398	524	1,512	7,846	8,601
Corporate inventory valuation adjustment	472	−2,143	−31	−2,617	−4,689
Contributions for social insurance	243	285	1,800	2,784	5,990
Excess of wage accruals over disbursements	0	0	0	0	0
Plus: Net interest paid by government	983	1,170	1,204	1,289	4,491
Government transfer payments	912	1,454	1,851	2,617	10,791
Business transfer payments	587	659	567	502	528
Equals: Personal income	85,127	46,629	73,976	95,308	177,217

* Source: U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Survey of Current Business* (July 1947, supplement), p. 20.

1941 that the 1929 level was surpassed. Since 1941, war-created prosperity pushed product and incomes to double the 1929 figure.

Table 7 shows the national income by distributive shares. "*Compensation to employees* is the income accruing to persons in an employee status as remuneration for their work. From the employers' standpoint, it is the direct cost of employing labor."[13] It includes not only wages and salaries, but such supplementary employee compensation as employer contributions for social insurance, for private pension and welfare programs, for injuries (workmen's compensation), as well as commissions, tips, bonuses, and payments in kind (e.g., lodging) which represent income to the recipients. The general meaning of the other distributive shares is reasonably obvious, and the detailed technical definitions easily available.[14]

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[13] U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Survey of Current Business* (July 1947, supplement), p. 8.

Among the significant revelations of the data in Table 7 are first the relative stability of the percentage of national income going to employees except that in times of depression employees' share increases substantially. Of course, this does not mean that workers are better off in depression than in prosperity, but merely that their share of the depressed national income is proportionally greater than their share of the national income in prosperity. The second significant revelation is the variation in the share of national income going to corporate profits. The wide variation between the negative income in 1933 and the high share in 1941 illustrates the fluctuation of corporate earnings in depression and prosperity.

Table 7

NATIONAL INCOME BY DISTRIBUTIVE SHARES, 1929–1946*

	1929	*1933*	*1937*	*1941*	*1946*
National Income (in billions)	87.4	39.6	73.6	103.8	178.2
Percentage Shares to:					
1. Compensation of employees					
General[a]	58.1	74.1	64.8	61.9	65.5
Private[b]	51.7	59.8	52.2	49.6	50.6
2. Income of unincorporated enterprises and inventory valuation adjustment	15.9	13.2	16.6	15.9	19.6
3. Rental income of persons	6.7	5.1	4.3	4.2	3.9
4. Corporate profits and inventory valuation adjustment	11.8	−5.0	8.4	14.1	9.2
5. Net interest	7.5	12.7	5.9	4.0	1.8

* Source: Adapted by John T. Dunlop from U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Survey of Current Business* (July 1947, supplement), p. 19.

[a] Includes compensation to private, military, and government civilian personnel.

[b] Includes compensation to private personnel only.

REAL AND MONEY WAGES AND EARNINGS

Table 8 shows the index of real and money average hourly earnings and the index for the cost of living for selected years, 1820–1946. The dramatic increase in the standard of living of American workers is clearly shown by the middle column which shows the index of real average hourly earnings or, in other words, corrects the index of money average hourly earnings by the index of the cost of living. Since 1820 the index of real average hourly earnings has increased sixfold, and in 1946 it stood at 2½ times the figure for 1900. The gloomy prophets of socialism who prophesied an ever-shrinking standard of living for the working class were clearly unaware of the industrial and economic advances which lay ahead of their little nineteenth century world.

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[14] U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, *Survey of Current Business* (July 1947, supplement), p. 8.

Table 8

INDEX OF REAL AND MONEY WAGES AND THE COST OF LIVING, 1820–1946*
(1914 = 100)

Year	*Index of Money Average Hourly Earnings*	*Index of Real Average Hourly Earnings*	*Index of the Cost of Living*
1820	35	41	86
1830	36	51	71
1840	40	51	78
1850	42	59	72
1860	46	57	80
1870	82	71	117
1880	65	77	84
1890	73	96	75
1900	76	101	75
1910	92	100	92
1920	242	128	200
1925	245	140	175
1930	248	149	166
1935	247	181	137
1940	296	212	140
1945	459	257	179
1946	486	251	194

* Sources: Compiled by John T. Dunlop from data of U. S. Bureau of Labor Statistics; and A. H. Hansen, *American Economic Review*, **15**:27–42 (1925).

Table 9 gives the average hourly earnings for select industrial groups for selected years, 1909–1946. Here again the increased earnings in the various industrial groups reveal the sharp advances which labor has made in the last 40 years.

Two final tables in this group, 10 and 11, break down the population by spending units and family units and by occupational groups in order to show the per cent distribution by size of income for the year 1946. Spending units differ from family units in that a spending unit is defined as all persons living in the same dwelling and belonging to the same family who pool their income to meet major expenses. Under this definition the number of spending units is greater than the number of families (since some members of the same family who live in the same dwelling may not pool their income to meet major expenses) and smaller than the number of individual income receivers (since many of the spending units have more than one income receiver). The importance of the data in Tables 10 and 11 is to show the relative economic status of the population in an

Table 9

AVERAGE HOURLY EARNINGS OF WAGE EARNERS IN MANUFACTURING, MINING, AND STEAM RAILROADS, SELECTED YEARS 1909–1946*

Year	*Average Hourly Earnings (Dollars)*			
	Manufacturing, Mining, and Railroads	*Manufacturing Only*	*Mining[a] Only*	*Railroads[b] Only*
1909	$ .21	$ .19	$ .31	$ .22
1914	.24	.22	.34	.25
1919	.50	.48	.71	.54
1925	.57	.55	.76	.60
1930	.58	.55	.70	.64
1933	.47	.44	.56	.59
1935	.57	.55	.74	.64
1940	.68	.66	.85	.71
1945	1.02	1.02	1.21	.94
1946	1.10	1.08	1.38	1.11

* Source: Compiled by John T. Dunlop from data of U. S. Bureau of Labor Statistics.

[a] Includes bituminous and anthracite coal, and metalliferous, mining. Based in coal mining on time at face excluding lunch.

[b] Includes Class I railroads only, which make up more than 98 per cent of total railway mileage. Earnings are based on Interstate Commerce Commission report of "time paid for."

Table 10

PER CENT DISTRIBUTION OF SPENDING UNITS AND FAMILY UNITS BY SIZE OF INCOME, 1946*

Annual Money Income Before Taxes	*Spending Units*	*Family Units*
Under $1000	17	15
$1000–1999	23	20
$2000–2999	25	22
$3000–3999	17	18
$4000–4999	8	10
$5000–7499	6	9
$7500 and over	4	6
Median income	$2300	$2600

* Source: *Federal Reserve Bulletin* (July 1947).

inflationary period. Median incomes of less than $3000 meant that despite the high standard of living the average American in the postwar period found it difficult to meet expenses. Labor responded by demands for increased wages which frequently were met by increased prices, thus adding to the upward spiral and putting the fixed income groups at a greater relative disadvantage. Nevertheless the median incomes for the professional, managerial and self-employed, and clerical and sales groups remained above that of the skilled, semiskilled, and unskilled group in which most factory labor would be included.

Table 11

PER CENT DISTRIBUTION OF SPENDING UNITS[a] WITHIN DIFFERENT OCCUPATIONAL GROUPS BY SIZE OF INCOME, 1946*[b]

Annual Money Income Before Taxes	*Professional*	*Managerial and Self-employed*	*Clerical and Sales*	*Skilled Semi-skilled and Unskilled*	*Retired*	*Farm Operators*
Under $1000	8	3	8	12	62	35
$1000–1999	10	16	22	25	20	27
$2000–2999	18	15	30	32	9	17
$3000–3999	13	18	20	20	4	8
$4000–4999	16	13	11	7	1	5
$5000–7499	19	14	6	4	2	2
$7500 and over	15	19	3	[c]	2	1
Median income	$4000	$3700	$2600	$2300	[d]	$1300

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* Source: *Federal Reserve Bulletin* (July 1947).

[a] Spending unit is defined in text.

[b] Data does not add up to 100 because some were not ascertained.

[c] Less than one-half of one per cent.

[d] Not computed.

PRODUCTIVITY

The high and ever-rising standard of living for American workers has been made possible by increases in productivity or output per man-hour which are shown for selected industrial groups in Table 12. The increase in wage rates has to a considerable degree been offset by increased productivity, thus preventing costs from rising comparably to the increased average hourly earnings of labor.

Contrary to popular conceptions, productivity does not depend primarily on human effort. In fact human effort is relatively insignificant in the total productivity picture. The main reason for increased productivity has been the increased efficiency of machine technology.

From a short-run point of view productivity may also be affected by

Table 12

PRODUCTIVITY INDEXES FOR SELECTED INDUSTRIAL GROUPINGS, 1920–1945*
(1939 = 100)

Year	Output Per Man-hour				Output Per Worker
	All Manufacturing	*Railroad Transport*	*Mining*	*Electric Light and Power*	*Agriculture*
1920	48.3	57.6	51.8	[a]	86.4
1925	65.0	68.2	62.6	50.4	88.5
1930	77.4	75.1	72.9	50.1	89.7
1933	82.9	83.0	78.8	68.1	89.1
1935	91.0	87.6	84.6	82.5	87.4
1939	100.0	100.0	100.0	100.0	100.0
1943	[b]	150.9	108.6	182.7	116.8
1945	[b]	139.5	117.8	181.4	122.2

* Source: *Monthly Labor Review* (December 1946), p. 895.

[a] Data unavailable.

[b] Productivity for these years in manufacturing not comparable because of production change to war goods and thus sudden switch in goods produced, markets, and equipment.

the intensity of labor utilization. Some economists have distinguished between what they call "volume productivity" and "real productivity."

> We must try to distinguish as sharply as possible between increase and decrease of productivity caused by larger or smaller output volume—volume productivity increase—and the increase and decrease of productivity caused by real improvement of production or organization—real productivity increase . . . The trends in volume productivity are practically a direct consequence of the law of fixed costs. As business volume rises, the unit costs decrease automatically, within certain limits; with decreasing business volume they rise automatically . . . This is not so with the real productivity increase caused by progress in technique and/or in business organization. In many industries, this progress is especially accelerated in times of business recession.[15]

Despite the fact that human effort is of relatively minor importance in determining worker productivity, popular thinking continues to regard productivity as a measure of human effort, rather than as a measure of output by a worker using machinery which is the primary determinant of his level of production. Consider for example this quotation:

> In the postwar days the American dream of sixty million jobs was all but realized. The record-breaking army of job holders presented the

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[15] Julius Hirsch, "Productivity in War and Peace," *American Economic Review*, **36**:401–403 (May 1947, supplement).

> most amazing spectacle of reluctance to work effectively that has ever been seen among free people. Nearly sixty million of us combined produced, in 1946, little more than was produced in 1941, with ten million fewer workers. In terms of national income, and of the dollar value of the goods and services, the national product was greatly increased. In terms of tangible things and needed services the production was little greater than in 1941. In terms of product per worker it was less.[16]

The author blamed the described failure to produce with more manpower to lack of incentive on the part of workers. A more accurate explanation is probably that plant equipment and machinery was less efficiently utilized and more obsolete in 1946 than in 1941.

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[16] A. R. Heron, *Why Men Work* (Stanford, Stanford University Press, 1948), p. 6.

Part III

UNIONS AND COLLECTIVE BARGAINING

4

Union Structure and Government

The governments of American unions, like those of nations, run the gamut from democracy to dictatorship. The type and structure of a union organization depends upon a wide variety of industrial and personal factors, and may have important repercussions both on union policies and on the economy as a whole. A knowledge of union structure is an essential background to the economics of labor.

The Local Union

The government of unions may be likened to that of the American nation. At the bottom of the structure is the local union with functions somewhat similar to the municipality. In the intermediate stages are union regional offices, joint boards, or district councils, which are comparable to the states. And at the top is the international or national union, which compares with the federal government.

The local union is the part of union structure which the member contacts directly. The conduct of affairs on the local level is thus frequently the means by which the member judges his union. Like the government of municipalities, there is much in local union government which is heartening to those interested in democratic ways, and much that is unsavory, and the latter, as in municipal affairs, is most often attributable to the failure of the citizenry, or members, to concern themselves with the conduct of their organization. In short, local union government, like municipal government, too often depends on the character of the small minority who are willing to bear the burden of operating the organization.

LOCAL JURISDICTION AND SIZE

The jurisdiction and size of local unions do not follow a fixed pattern. Most commonly, the local has jurisdiction over a single plant, and thus the size of its membership depends upon the size of the plant. The world's largest local is No. 600, United Automobile Workers (CIO), which has jurisdiction over the 80,000 workers employed in the River Rouge (near Detroit, Michigan) plant of the Ford Motor Company. Other one-plant locals have only 10 to 100 members.

There are, however, many variations from the one-plant local. Craft union locals commonly have jurisdiction over an area. Thus, the Bricklayers' Local No. 1 of Louisiana is composed of all union bricklayers in New Orleans. In larger cities, like New York or Chicago, two or three such locals may divide the jurisdiction.

Local union membership may also be divided on racial or national lines. Thus in many southern cities, building trades mechanics are found in separate racial locals. In New York, certain locals of the International Ladies Garment Workers' Union are confined to Italian-Americans. Locals of Mexicans or Orientals are sometimes found in the Southwest and in the Pacific states.

Industries in which average plant employment is small are frequently characterized by multi-plant locals. Thus in the Detroit tool and die jobbing shops, which employ an average of less than 25 employees per shop, two United Automobile Workers' locals have jurisdiction—No. 155 on the East Side and No. 157 on the West Side. In such cases one shop is considered too small to function as a unit.

Multi-plant locals may also develop for other reasons. A separate local of the United Automobile Workers has jurisdiction over all automobile plant office workers in the Detroit area, apparently because it is thought that the peculiar problems of white collar personnel are better handled through a centralized local than through the plant locals which contain mainly production employees. A number of unions have amalgamated locals which are quite large, apparently to centralize control. Allegedly this has been a method by which a Communist minority has been able to control large sections of the United Electrical, Radio and Machine Workers (CIO). Under the UE amalgamated system in the New York area, each plant in the large locals is represented on an executive board. Control of the executive board secures control over all plants. By concentrating all their strength on a few small plants the Communists have won a majority on the amalgamated executive boards and hence have complete control over the local. Other factions in different unions have also used the amalgamated technique to strengthen their position.

Local Union Officers

If a local union is small, it usually cannot afford full-time officials. In such cases, its officers work at their jobs, but by agreement with management, take time off for union business. The union compensates them only for actual expenses, which include time off from their jobs at the job rate. In many instances the international union assigns a full-time representative to aid local unions in the conduct of their affairs. The international representative is of special importance where the local cannot afford full-time officers of its own.

The larger local unions usually have one or more full-time officials who are compensated completely from the local treasury. The top ranking official may be the president, or the latter may be only a figurehead with chief power in the hands of a business agent or manager, or a secretary-treasurer. Custom, accident, and the strength of individuals who have occupied, or are occupying, these positions are the determining factors.

Only the largest local unions can afford appointed officials to assist elected ones. A few of these do, however, have organizers and other "local representatives" on their payroll. Such appointees help organize new shops, assist in negotiating and administering collective bargaining contracts, and aid the union political fortunes of those elected officials who are responsible for their appointment. They function on a local basis similarly to international representatives on a national basis. The functions of the latter will be described below.

Duration of Local Union Office

Most commonly, local officials are elected for a term of one year, although a few larger locals have biennial elections. In contrast to the situation in the national union, the turnover of local officials is high. This is especially true in the smaller locals where the leaders and the membership are close and challenges to local leadership do not involve expensive campaigning. On average, it is not likely that the tenure of local office exceeds two to four years. Some of the turnover is accounted for by advancement to higher union positions; some by the fact that local union officials often accept managerial positions—for example, become foremen; but most of the turnover is accounted for by the desire of the electorate for a change in administration.

Local union officials often have few compensations for their jobs. Their salaries as a rule are not particularly high, and often not very much in excess of what they can earn as workers. There are, of course, exceptions, with some local officials inordinately overpaid. In the main, however, status is likely to be more important for the full-time official, for full-time union work is more appealing to many than a factory job of equal pay. Against that, however, are the long hours, the necessity to work nights when factory employees are free, and the constant reminder that tenure in office is likely to be short. The fact that most local union officials work hard with little compensation beyond the satisfaction which they derive from their positions has earned them the respect of workers and neutral observers. One surprised worker who had apparently read of sensational "union graft" attributable to a few union officials wrote, after a local union leader had declined a gift for a service: "I expected to pay off Sam [the local business agent] . . . He was untouchable, however, and would not take so much as a box of cigars. He wanted my respect, my loyalty, and my support—no more. I was surprised, because I fully expected to have to bribe [him] . . . My respect for unions . . . commenced when I discovered that union leaders could be sincere, helpful, and friendly fellows. [The local business agent] was not at all like the corrupt 'union bosses' I had imagined."[1]

THE SHOP STEWARD

Besides compensated officials, nearly all local unions have shop stewards or committeemen who are the union representatives in the plant. They are usually elected by the group which they serve. These officials work full time at their jobs, but in addition collect dues, handle grievances with management foremen, and generally look after union affairs in the shop. They carry the union's message and represent the union in its daily contacts with members. Their relations with foremen often determine the type of industrial relations which exists in a plant; for whatever may be union-management relationships at the top level, stewards and foremen are the persons who must carry it out on the shop level where it counts.[2]

LOCAL UNION MEETINGS

The business of the local is generally conducted at meetings which are either called by local officials, or are held at stipulated intervals. Unfortunately, these meetings are not, as a rule, well attended. The average union member takes his responsibilities *qua* member lightly. After a hard day's work, he is much more likely to stay at home with his family or to engage in recreational pursuits than to attend a union meeting which may be quite unexciting.

In making light of his membership responsibility, the average union member is a typical citizen. Most of us are little concerned how or by whom our local government is run. Few stockholders of corporations even inquire of their rights, let alone exercise them. The general attitude is to permit affairs of union, corporation, or town to be handled by those willing to do the work. Only in times of crisis is the electorate aroused. Crises may be caused by economic factors beyond the control of local officials; by the rise of another "active minority"; or by malfeasance in office. Interest is then aroused, members take sides, and meetings become well attended. The new group may succeed in a house cleaning, and the local may gain or suffer as a result, but the interest, as in other organizations, is not sustained once the contest ends.[3]

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[1] John Worker (a pseudonym), "My Union—An Inside Story," *Harvard Business Review*, **26**:109 (1948).

[2] This point is further emphasized in Chapter 5.

[3] For a fascinating story of how an "active minority" runs a professional society, see Oliver Garceau, *The Political Life of the American Medical Association* (Cambridge, Harvard University Press, 1941).

Intermediate Union Government

To coördinate the activities of local unions, and to act as an intermediary form of government between the local and national, most unions have established what are termed regional offices, district councils, joint boards, etc. In industrial unions the regional office is the most common. Its jurisdiction varies with the concentration of the industry. For example, the state of Michigan is divided into numerous regions by the United Automobile Workers, and the rest of the country has proportionally many fewer because the industry is concentrated in and around Detroit. Similarly, the districts of the United Mine Workers are contiguous with the various coal fields; those of the United Steelworkers are heavily concentrated in the Pittsburgh-Ohio Valley area; and those of the United Rubber Workers follow the concentration of the rubber industry in Akron, Ohio.

Building trades unions, which are organized on a craft basis, frequently have all local unions in an area represented in a coördinating district council. The garment unions call a similar organization a joint board; railroad unions generally coördinate their locals on a single railroad in what they call a system federation.

Whatever the name, the general purpose of these intermediate forms is the same: coördination of local union activities and joint action of locals in dealing with management. Generally, the regional office is headed by an official elected either by the entire union membership or by the membership of the district or region only. In some unions, regional chiefs have the title of vice-president; in others, such as the building trades, the head of the district council may be merely the secretary-treasurer of that council. In any case, the regional office is an important union position which many local union officials covet. The turnover in regional officers is less frequent than in the local officers, and the former jobs carry considerably more prestige in most instances than do local offices.

Regional officers of unions sometimes have a paid staff of organizers or regional representatives, and in some unions they also include a professional staff of lawyers, statisticians, educational directors, etc., whose functions are similar to personnel attached to the international union offices and described below.

The National Union

The Convention

The "top" organization of American unions is the national, or international, union. The officers of the national union are generally selected at a convention of the entire union, which is held most commonly every two to five years, although some unions still hold annual conventions, and others hold them at much longer intervals. Election of national officers is sometimes directly by delegate, and on other occasions delegates merely nominate, with the actual contest being determined by a referendum of the entire membership.

Union constitutions generally provide for representation by local unions in convention on the basis of membership. In order, however, to prevent the large locals from being completely dominant, representation is sometimes on a graduated basis (for example, 1 delegate for every 100 members, 2 for every 300 members, 3 for every 550 members, etc.). In most cases the convention has complete power to amend the constitution and by-laws, although a few unions require some of all such changes to be confirmed or rejected by referendum of the membership.

THE REFERENDUM

The use of the membership referendum in place of the union convention was considered highly desirable from the point of view of promoting democracy in the early part of the century. Except in the case of a few unions, however, whose membership has a tradition of participation as well as a high sense of responsibility (e.g., the International Typographical Union), the referendum failed to live up to its promise. Although theoretically it was believed that referendums would achieve more participation of membership than a convention does, the opposite proved to be the case.

In the first place, most union members do not take an interest in referendums so the decisions made as a result of them have largely been the decisions of active minorities who took the trouble to vote. And, in the second place, the referendum denies the membership sufficient opportunity for the type of discussion of the pros and cons of issues which features many union conventions. Finally, substituting referendums for conventions permitted a few unions, such as the Tobacco Workers International Union and the International Hod Carriers', Building and Common Laborers' Union, to go for periods of over 30 years without holding a convention which, in turn, removed the incumbent officers from effective challenge by potential opposition.

NATIONAL UNION OFFICERS

Most national unions are officered by a president, a secretary-treasurer, occasionally a director of organization, and one or more vice-presidents. The number of vice-presidents will be determined by many factors, e.g., whether regional directors bear that title. In addition, most unions have a national executive board which is theoretically the top governing body between conventions. Members of the executive board are often the regional directors or vice-presidents.

In most unions the chief executive officer is the president, but in some instances other officials overshadow the president. The latter may be historical accident—e.g., following the British system, a few older unions, such as the Brewery Workers prior to 1948, or the Amalgamated Meat Cutters and Butcher Workmen, designate the secretary-treasurer as the chief executive officer, as does the more recently organized Mechanics Educational Society, of which a native Englishman was the chief founder. The director of organization has more power than the president in the United Electrical, Radio and Machine Workers union, apparently because it was through his office that the Communists secured control of that union. The president of the American Newspaper Guild is not even a full-time officer, the chief officer being the executive vice-president. This custom arose so that the late Heywood Broun, the columnist, could be a sort of honorary president. Successive executive vice-presidents have thus far successfully resisted transfer of their authority to the president.

Although the president, or whoever the chief executive officer of the union may be, is almost always technically subordinate to the executive board, more often than not he is likely to control it. There are, of course, exceptions. Thus, until his slate of candidates won control of the United Automobile Workers Executive Board in the 1948 convention, President Walter Reuther of that union was almost completely hamstrung by an antagonistic executive board, which had effective power to curb his activities.

In most cases, however, the constitutional power of the union's chief officer is very great, and if he is a forceful personality he may reduce the executive board to complete subordination, as John L. Lewis has done in the United Mine Workers.

Table 13 divides 115 international unions into three groups according to the powers granted in the union constitution to the chief executive officer. In general "routine power" means that the officer is under the general jurisdiction of the chief executive board; "considerable power" indicates few checks on executive conduct; "moderate power" is the intermediate stage between the two. "The tests applied are the extent of appointive power, the limitations placed on the right to discipline subordinate groups and members, and the checks that exist upon conduct. The divisions are somewhat arbitrary, for there is some difference granted by the different unions even within the three groups."[4]

The data in Table 13 show a tendency on the part of American unions to grant increasing power to their chief executive officers. The large number of unions in the AFL which fall under the "considerable power" category indicate that as unions grow old the chief officer tends to assume more and more authority. The various reasons for this will be discussed in greater detail when we examine the tenure of national union officers and local union-national union relationships. Suffice it to point out here that the advent of national and regional bargaining, the necessity to coördinate local activities, and the wills of strong individuals, have been the important factors in the concentration of union power.

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[4] Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*, **62**:459–460 (1948). The ensuing discussion is based largely on this article.

Table 13

CONSTITUTIONAL POWERS OF CHIEF EXECUTIVE OFFICER IN AMERICAN UNIONS*

	Number of Unions			
	Routine Power	*Moderate Power*	*Considerable Power*	*Total*
AFL affiliates	13	22	39	74
CIO affiliates	14	9	6	29
Unaffiliated	3	3	6	12
Total	30	34	51	115

* Source: Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*, **62**:459–471 (1948). By permission of author and publisher.

That concentration of power tends to be a function of age is also illustrated by the large percentage of CIO unions which fall in the "routine power" class. By and large, these are new unions in many of which individuals have not had the time to coördinate power, and in some of which concentration of power was a reason for breaking away from an AFL union. In addition, however, these CIO unions include a number which are recognized members of the group whose officers consistently follow the Communist Party line.[5] It appears that a technique of Communist organization, in the thirties at least, was to place a non-Communist "fellow traveler" in the chief post, but to retain most control in the hands of Communist-dominated subordinate officials or executive boards. Hence, lack of power in the hands of the executive may aid rather than hinder union domination by a skilled minority.

On the other hand, excessive power in the hands of individuals is unhealthy in any organization. The increasing importance of unions in the economy, their control over job opportunities, and the arbitrary acts of some union leaders which apparently cannot be checked within the unions raise grave questions of public policy.[6]

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[5] The United Electrical, Radio and Machine Workers, the International Longshoremen's and Warehousemen's Union, the Food, Tobacco and Agricultural Workers. In addition, the National Maritime Union and the Transport Workers Union, both of which recently wrested control from Communists, are in this group.

The unions which limit their president to "moderate power" generally permit him to appoint organizers and representatives, interpret the union constitution, exert considerable influence on local unions and members, etc., but always subject to some check—most commonly appeal to the international union executive board and to the convention. The effectiveness of this check is of course a function of the degree of independence of the executive board. An executive board which is subservient to the president (which is not uncommon) can thus convert moderate constitutional power into considerable actual power.

Unions which endow their chief official with "considerable power" may still place some checks on his actions. Thus the president of the carpenters' union has vast authority including "the power to suspend any Local Union, District Council, State Council or Provincial Council for violating the laws or constitution of the union. His action is subject to appeal to the General Executive Board. The president can also consolidate locals, suspend general officers pending trials, and order the disbandment of subordinate bodies he finds acting against the interests of the Union."[7]

On the other hand, a few officials, notably John L. Lewis, president of the United Mine Workers, and James Caesar Petrillo, president of the American Federation of Musicians, have almost unchecked union authority.

Union presidents who have great authority often hesitate to use it for fear that local unions or individuals may appeal to the courts. The judiciary is, however, loath to interfere in union affairs and more often than not upholds union officials if they act within their constitutional power. The extent of union power can thus be "a dangerous instrument in the hands of fallible men . . . possession of it insulates leaders against criticism and unselfish opposition needed in a world of change. The conduct of John L. Lewis in reducing a once-democratic union to a benevolent satrapy, where he is virtually a law unto himself, is an example of the danger of too much power."[8]

Tenure of National Union Officials

The tenure of national union officials in contrast to those on the local level has traditionally been long. Indeed, opposition to national union officials in election contests is likely to be rare. An examination of 764 offices filled in 7 unions between 1910 and 1941 found that 634 of the officers were uncontested.[9] John L. Lewis has been president of United Mine Workers since 1920; William Hutcheson of the Carpenters since 1915; Daniel Tobin of the Teamsters since 1907; William D. Mahon was president of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America between 1893 and 1946; and so the list could be extended.

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[6] Some of these are discussed in Part VI.

[7] Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*. **62**:468 (1948).

[8] Philip Taft, "The Constitutional Powers of the Chief Officer in American Labor Unions," *Quarterly Journal of Economics*, **62**:471 (1948).

In any election the incumbent has a tremendous advantage. He is already well-known to the membership and his every action is news. The challenger must make himself known outside of his locality and must have an issue which differentiates him from the incumbent. Patronage, the union journal, and other avenues of communication are controlled by the incumbent. In the fairest of elections the challenger faces heavy odds.

Unfortunately, many incumbents have used patently unfair means to retain authority. In 1926 John Brophy was allegedly counted out by tellers controlled by President John L. Lewis of United Mine Workers. And when Brophy attempted to continue his opposition to Lewis, the latter secured the expulsion of Brophy and his lieutenants from the Union. No one has dared run against Lewis since then. "In 1936 J. W. Williams allowed his name to go before the convention of the carpenters' union as a candidate for president to oppose the incumbent, W. D. Hutcheson. Williams was not an unknown and he was an established trade union official of some importance, yet the situation appeared so hopeless that he withdrew his name. Soon thereafter Williams was forced out as president of the Building Trades Department (A.F. of L.), which is dominated by the carpenters' union."[10]

In a few unions, however, contests for the presidency have been the rule rather than the exception. Among these, the International Typographical Union stands out for the number and vigor of officer contests. Only three times since 1898 has the ITU presidency been uncontested, and most elections have been determined by narrow margins. Elections in the much newer United Automobile Workers have been even more bitterly contested. Contests for national union office have also been frequent in the National Maritime Union, the United Rubber Workers, the American Newspaper Guild and some other of the newer unions. Whether these new unions will continue to have election contests as has the ITU, or whether they will develop unitary ruling machines remains to be seen.

Despite the vigor of the competition for office in some unions, the trend is definitely toward long term national union office. Indeed, one official, Joseph Ryan, president of the International Longshoremen's Association, has been elected president for life. William Hutcheson is not only apparently life (since 1915) president of the Carpenters, but is obviously grooming his son, Maurice, now vice-president, to succeed him.[11] And Daniel Tobin, president of the Teamsters since 1907, has several sons on the union payroll who obviously aspire to high office.

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[9] Philip Taft, "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, **58**:248–251 (1944).

[10] Philip Taft, "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, **58**:251 (1944).

Whether a union selects officials at convention where delegates vote or directly by referendum of the membership does not insure or prevent opposition. Both the carpenters and the mine workers elect officials by referendum, but neither Hutcheson nor Lewis permits opponents to oppose them. On the other hand, the referendum is also utilized by the International Typographical Union whose officers have been unopposed for election only three times since 1898. Similarly, the vigorous democracy that features the United Automobile Workers has not been impeded by election of officers via convention delegates. On the other hand, the UAW's sister union, the United Steelworkers, which also elects its officers at convention, has yet to have a contest for a national elective office.

An important influence in contesting union positions prior to World War I can be attributed to the vigorous socialist minority in many unions. Rarely in authority, but always on the alert, the socialists and their fellow radicals provided the membership with effective watchdogs whose competition and criticism were ever threats to power grasping leaders. But they disappeared in the 1920's.

In some unions, however, socialist influence has failed to promote democracy. The Amalgamated Clothing Workers was organized in 1915 under strong radical direction. But Sidney Hillman, its president from its organization till his death in 1946, never brooked any opposition. To a considerable extent, vigorous election contests in some of the new unions, e.g., the United Automobile Workers, have been between "left wing" factions in which Communists have played a major role and "right wing" groups in which non-Communist radicals—not unlike the pre-World War I socialists—have been prominent.

On the other hand, radical influence of any type can claim little influence in maintaining the record of the International Typographical Union. Rather the democracy of the ITU elections appears to be attributable to other factors: a fairly steady membership, local bargaining which limits the opportunities for intervention in the local's affairs by the International officers, and the great interest manifested by the membership in the affairs of the union. In addition the ITU has developed a unique system of political parties which keeps the political pot boiling so that the members' interest is kept high. And the high intelligence and education of the average ITU member stimulates interest in the government of the union.

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[11] Philip Taft, "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, **58**:264 (1944).

It must be emphasized that the factors which promote union opposition to long tenure officialdom in the ITU may be thwarted. The International Printing Pressmen's and Assistants' Union is composed of printing industry crafts who seceded from the ITU in 1889. Opposition to union officers in the Pressmen's union has been as infrequent as it has been frequent in the ITU. George Berry was president of the Pressmen from 1907 until his death in 1948. Opposition to him was rare, and when it arose, discouraged by his effective countermeasures, which included a constitution decidedly favorable to his maintenance of power.[12]

The long term incumbency of top union officials is not unique in American life. Corporation officials likewise frequently are in power for long terms, and in other institutions the situation is undoubtedly similar. Long term office holding has its advantages. In industrial relations it may promote stability and understanding between labor and management. A union official who does not fear for reëlection may be in a position to act more realistically with management than one who must constantly bear in mind the effect of collective bargaining on his tenure. That experience is a valuable asset, few would deny.

Nevertheless, the advantages of active opposition appear to outweigh the disadvantages. "Regardless of the merits or the capacity of an individual, the need to pass through the gauntlet of a periodic election makes him more responsive to the will of his constituents. Opposition in elections is a means of registering complaints against lazy or dishonest officers or those who fail to carry out the will of the membership."[13]

APPOINTIVE OFFICIALS

In addition to elected officials most national unions have a sizable staff of paid, appointed personnel. They include two groups: the specialists or professionals, and the international representatives. The former are the lawyers, economists, statisticians, research and educational directors, etc., which modern trade union organizations must employ in order to engage in what has become the highly technical business of running a union and engaging in collective bargaining with management. The latter are nearly always from the ranks of union members.

Professional employees of unions sometimes become key figures in union administration or collective bargaining. This is especially true of lawyers. Ralph Helstein assumed such prestige as legal adviser of the United Packinghouse Workers of America (CIO) that in 1946 he was elected president. Usually, however, the lawyer remains in the background as a chief adviser of top officials. And if these officials fail to secure reëlection, their lawyers and other professional advisers are usually swept out of office by the new administration. However important the advice of professionals is to labor leadership, that advice can always be purchased as well from those whose loyalty is above question as from those who served the outgoing administration. With extremely few exceptions, professional personnel have discovered that working for a union permits no more, if as much, deviation from the official administration line than does working for government or business.

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[12] J. Shister, "Trade Union Government: A Formal Analysis," *Quarterly Journal of Economics*, **60**:106 (1945).

[13] Philip Taft, "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, **58**:264 (1944).

The international representatives are almost entirely from the union's own ranks. They have three main functions: first, they are assigned to organize unorganized shops in the union's jurisdiction; second, they assist local unions in negotiations and collective bargaining; and third they act as political representatives of those responsible for their appointment.

The first of the international representatives' functions is self-explanatory, but the other two require further explanation. Much has been said and written about "interference" by national union officials who prevented local unions from settling controversies except on terms dictated by the national union. This has indeed often occurred, notably in 1946 when the United Steelworkers refused to permit any local to settle the nation-wide strike for less than 18½ cents per hour, although many locals quite plainly felt it wise to do so.

More frequently, however, the national union is a force for peace. Its officers know the costs of strikes and its staff builds up prestige by successful, peaceful settlements. Local union officers often are too fearful of the consequences of their actions and too inexperienced. Frequently, the local officers "get out on a limb" from which they cannot rescue themselves. At this point, the international representative can step in and use the prestige of the national union to sell the membership on the fact that the local leaders have secured a very good deal despite the fact that it is less than was promised.[14]

The collective bargaining duties of the international representative may also include a wide variety of assignments which service local unions. In performing these duties, the international representative meets many union officials and members. And through these contacts, he engages in his political function also.

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[14] By only a one vote margin in considering the Taft-Hartley Act, the United States Senate rejected a proposal that the House of Representatives had accepted, which, if passed, would have prevented the international union from influencing local union decisions. The folly of such action was obvious to most students of collective bargaining, but considerable interest in enacting the proposal remains.

International representatives have no job security although they may win it for the rank and file through collective bargaining. Theirs is a political appointment (which does not necessarily cast aspersions on their abilities), and they must aid the political fortunes of those who appoint them if they are to retain their jobs.

The power of patronage in government is always an important weapon in the hands of the incumbent. So it is in a union. A union official who gave no heed to politics would not last long in office. He must make friends in order to assure his reëlection. One of the best ways to do that is to appoint to positions people who have contributed to his success, and who will continue to work for his interest. The international representative is, thus, the political emissary of the person who is responsible for his appointment. For basically, the union is, internally, a political organization. It could not be otherwise if it is to be in any way democratic. And no democracy, or dictatorship, has ever been managed without "political machines" built on a patronage foundation.

Union Finance

Operating a union in modern American society can be an expensive undertaking. Officer and employee salaries, office rent, traveling expenses, postage and other communication costs, publicity, legal and research activities, are a few of the daily routine expenses. In addition, a reserve must be built up; for a long strike with its increased demands on ordinary services, plus the costs of strike benefits, extra legal and publicity help, etc., can drain a union treasury of several million dollars. The United Automobile Workers' strike against the General Motors Corporation in 1945–1946 did just that.

Dues and Fees

The funds necessary to operate a union and to service its membership come primarily from the monthly dues paid by the membership. In addition, unions derive income from initiation fees and assessments, also paid by members, and from government bonds, property, or other investments where excess or reserve funds are kept.

In general, the older unions have the highest dues and initiation fees.[15] There are two reasons for this. First, these unions are primarily craft organizations composed of skilled workers. They combine high earning potential with work scarcity consciousness. To a large extent high dues and fees are justified by these unions on the grounds that newcomers should compensate the union which has raised wages and standards in the craft, especially since the present high wages permit "Johnny-come-lately" to pay his share so easily. A high initiation fee also seems to discourage applicants, and thus give union men a greater part of the available work. The use of the initiation fee as an exclusionist policy is only feasible if entrance to the trade can be controlled by the union. With a few exceptions, only craft unions can exert such control. An industrial union which depends for its bargaining strength on organizing all employees of the industry or firm would defeat its purpose by raising its fees very high.

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[15] Philip Taft, "Dues and Initiation Fees in Labor Unions," *Quarterly Journal of Economics*, 60:219 (1946).

The second reason why dues and fees tend to be higher in the older unions than in the newer ones is the greater stress by older organizations on union-sponsored benefit systems. Many of the older unions have always paid death benefits, and some also pay disability, old age, and sickness pensions as well. A few, the Big Four railroad brotherhoods in particular, have elaborate life insurance schemes. Dues and initiation fees in such unions are higher because they include the contributions of members to benefit plans.

Welfare programs developed by the newer unions do not directly affect union dues and initiation fees.[16] Usually, these programs are the result of collective bargaining and are paid for either by direct payroll deductions on employees plus an employer contribution, or by the latter alone.

Available statistics on union dues and fees are not very complete, since most national unions permit considerable variation by their locals. Most data indicate, however, that initiation fees vary from $2 to $100, with the average among the newer industrial unions near $5, and for the older craft unions approximately $50 to $75.[17] In a few instances, initiation fees of over $100 or even $1000 have been recorded, particularly in the skilled crafts of the movie industry.[18] For the most part, however, these fees are maintained as bars to admission rather than as actual charges.

Monthly dues are generally much lower than initiation fees. The average for the new industrial unions was approximately $1 prior to World War II, but is now probably double that as unions, like every other institution, have been forced to react to increased costs of operation. The monthly dues of the older craft unions are generally $5 to $10.

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[16] They might affect fees indirectly by requiring the union to hire additional personnel to administer the plan.

[17] These estimates are close to those found by Professor Philip Taft ("Dues and Initiation Fees in Labor Unions," *Quarterly Journal of Economics*, **60**, 1946), but are slightly higher because, like all other prices, they have gone up in the post-World War II inflation.

[18] The fee of a Hollywood photographers' local is $500, but in 1946 it refused to admit even those who were willing to pay it.

The extent of union assessments varies considerably. Generally, they occur as a result of an emergency expenditure or for an organizing campaign. In 1943, the United Automobile Workers, in a referendum, voted an assessment to help organize the aircraft industry; in 1946, the UAW voted one to defray costs of the General Motors strike. More autocratic unions permit the chief executive officer and/or the executive board to levy assessments, sometimes with limits as to amount and number in a given period, and occasionally without even these safeguards.

Union fees tend to vary somewhat with employment conditions. Usually, craft union initiation fees rise during depressions in order to preserve available work for members, and decline somewhat when jobs are plentiful. Industrial union fees are usually more stable, since they do not generally function as an instrument of admission policy. Dues tend to be more stable, rising generally, as in 1948, in periods of inflation.

The Problem of High Fees

Generally, complaints of high union fees refer to initiation fees, rather than to dues. Moreover, as has been pointed out, the basic problem is admission policy, not initiation fees. Any legal attack on what is considered anti-social union fees must be directed to the root of the problem—the extent to which unions should be permitted to exclude persons from employment by excluding them from the union.[19]

There is no one criterion for a "too high" initiation fee. One hundred dollars appears a quite reasonable fee for the Air Line Pilots Association, whose members may earn more than $10,000 per annum; the same fee is outrageous when charged by the Hod Carriers', Building and Common Laborers' Union or the International Longshoremen's Association. A fee is large or small relative to the benefits expected, which include primarily prospective earnings.

Most union fees are not excessive by this standard. The main exceptions are found in the building and amusement industry unions. In these industries, union power is great and union control over jobs extraordinarily complete. Those who are in the unions are thus afforded an unusual opportunity to inflict heavy charges on such applicants as they permit to join.

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[19] As noted in Chapter 31, the Taft-Hartley Act attempted to attack this problem by permitting the National Labor Relations Board to examine union fees and by outlawing the closed shop.

UNION FINANCIAL METHODS

A union with a membership of 100,000 and dues of $2.00 per month would have a monthly dues income of $200,000 and expenditures for numerous items, most of which are purchased in bulk. Obviously, it is imperative that unions operate with careful bookkeeping and accounting methods which account for every penny of the membership. Fortunately, most national unions have adopted modern accounting methods. They employ competent bookkeeping staffs. Their books are audited by outside certified accountants. They publish detailed financial reports usually at quarterly or semiannual intervals in the union journal and they require all officials who are handling money to be bonded. It may be said without hesitation that the financial affairs of most unions are in at least as good shape as those of most corporations.[20]

Local union finances are sometimes less carefully handled. As a result most national unions lay down requirements in accounting methods and procedure which their locals must follow. The International Ladies Garment Workers' Union employs a staff of accountants who drop in on local unions and audit their books without notice to the locals, much as state bank examiners audit bank funds. Because of practices such as these, local union finances are today handled in a much more businesslike manner than ever before.

There remain, however, a few unions whose finances are the secret of their top officials. They are found mostly in the building and amusement industries, although by no means all the unions in these industries fall in this category. No less an authority than Westbrook Pegler has testified to the personal honesty of James Caesar Petrillo and to the good financial practices of the American Federation of Musicians. And the bricklayers have long been a model of good business practice in unions. Such unions as the Hod Carriers', Building and Common Laborers' Union or the Operating Engineers, however, have had long records of absolute failure to give adequate reports; and there are other unions whose financial affairs would not bear close scrutiny.

Despite the good record of most unions in financial matters, the general public undoubtedly believes union funds are commonly handled loosely. One result has been the demand for state and federal laws requiring publication of union financial data. The Taft-Hartley Act required unions to furnish the Secretary of Labor and each member with financial data as a prerequisite for using the machinery of the National Labor Relations Board. The effectiveness of this provision was limited because (1) the Secretary of Labor has so far declined to publish the information; and (2) the unions which are most in need of exposure, i.e., many of those in the building and amusement trades, have no need to use NLRB machinery, for they are already well intrenched in their respective industries.[21]

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[20] For a balanced discussion of this subject, see George Kozmetsky, "Unions' Financial Reporting," *Harvard Business Review*, **27**:13–23 (1949).

NET WORTH OF UNIONS

No adequate survey exists of the net worth of unions. In 1943, the Bureau of Internal Revenue reported that 28,638 local and national unions had a gross income of $389,700,000, mostly from dues and fees, and gross expenditures of $323,400,000, mostly direct operating expenses and per capita taxes to affiliated bodies. These same unions paid $25,000,000 in benefits to their members in 1943.[22] In view of the fact that there are approximately 60,000 local unions in the country, it would not be possible to estimate what the total figures are.

A survey of 53 of the larger national unions in 1948 found that they had a net worth of $265,000,000. A sizable portion of the net worth represents benefit plans. Since no correlation was found between union size and net worth, it is not possible to give an estimate for the 200 national unions, or the 60,000 locals. The data do indicate that unions have become wealthy, and that their assets are large enough to be of public interest. On the other hand, there are a large number of corporations each of which has a greater net worth than the 53 unions for which data were secured.[23]

Admission Policies

The great majority of American unions admit any applicant to membership. "If he is good enough to work in the plant, he is good enough to join the union" sums up the prevailing union practice and attitude.

There are, however, a significant number of unions which have consciously limited membership in their organizations because of (1) race, (2) lack of citizenship, (3) political beliefs, (4) sex, (5) rival union membership, or (6) because the union has closed its membership.[24] There are a few other grounds for exclusion, but they are not important.[25] We shall examine the extent of these exclusions and the reasons for them.

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[21] The Taft-Hartley and state laws will be discussed more fully in Part VI.

[22] From Bureau of Internal Revenue reports for 1943.

[23] See Nathan Belfer, "Financial Resources of Trade-Unions," *Journal of Political Economy*, **58**:157–161 (1949).

[24] This analysis follows closely that of Clyde W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, **61**:66–107 (1946).

[25] E.g., the Blacksmiths exclude members of "the state militia, sheriff's office, police force, secret service or miner's police force"; the United Mine Workers exclude members of the National Chamber of Commerce; and the International Longshoremen's Association excludes anyone "dealing in spirituous liquors." Such provisions are historical relics of no importance today. Unions also often exclude foremen and other management representatives, which, of course, has no effect on the employment opportunities of these groups and meets with their approval.

RACIAL EXCLUSION[26]

American trade unions have always been in the vanguard of those who advocate democracy and equal opportunity for all regardless of race, color, creed, or national origin. And it must be emphasized that most of the nation's 200 national labor organizations have made an honest effort to practice what they preach. This has been especially true since 1936 when the CIO was born. The fundamental philosophy of the CIO unions is to "take in everybody"; no one familiar with the situation can deny that its various affiliates have been doing just that. Competition from the CIO, moreover, has forced most of the AFL and the independent unions to adopt a more tolerant attitude than many had previously displayed.

But a sizable group of unions openly discriminates against minority groups. The reasons lie in the basic economic and technological conditions of the particular industry. Those unions which actively fight race discrimination—the United Automobile Workers, the United Steelworkers, the International Ladies Garment Workers' Union—are organized on an industrial basis, the only type of union structure feasible in a mass production industry. Such unions derive their bargaining power by admitting all the workers in their industries to membership and by bargaining for them without discrimination. If they excluded any racial or ethnic group, they would weaken their bargaining power. Exclusion would invite the excluded group to join another union and to break strikes. Racial discrimination by unions in mass production industries is not only impractical; it endangers the union's very existence.

On the other hand, unions organized on a craft basis derive their bargaining power by controlling the entrance of new workers to a trade or by monopolizing a strategic occupation. Such unions may find that race discrimination conveniently and effectively limits the number of workers available to that trade and thus raises the price of labor. It is no accident that craft unions like the United Association of Plumbers and Steamfitters of the United States and Canada have long had discriminatory policies.

This is not the whole story: there are craft unions that do not discriminate, and industrial unions that do. Many other factors are involved, and in each case they are mixed in different ways. In the case of the railway unions, for example, much can be explained by their character as fraternal societies. The first two railway unions (the Brotherhood of Locomotive Engineers and the Order of Railway Conductors of America) were fraternal and benevolent societies, and discriminatory rules are traditional in many areas of the fraternal field. As other railway unions came into existence, they copied the by-laws of the older organizations, including the discriminatory rules, as a matter of course, even though they may have become by then more important as bargaining than as fraternal organizations.

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[26] Based on H. R. Northrup, *Organized Labor and the Negro* (New York, Harper and Brothers, 1944), and "Race Discrimination in Trade Unions," *Commentary,* 2:124–131 (1946).

Recently, however, economic factors have been most important in maintaining the discriminatory practices of the railway unions. Employment on the railways has been declining and the railway unions have been trying to shift to Negro workers, whom they bar from membership, the burden of unemployment. The Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen have succeeded in getting nearly every railroad in the South either to limit the number of Negroes hired as brakemen and firemen, or, more often, to eliminate Negroes from these jobs altogether within a few years. Negroes are thus being deprived of jobs that have been open to members of their race since the Southern railroads were built, and that have been among the highest paying jobs to which they could aspire.

Union racial discrimination is most common against Negroes and may be summarized as follows:

1. Unions excluding Negroes by color bar in by-laws:

AFL affiliates: Air Line Dispatchers Association; Order of Railroad Telegraphers; Railway Mail Association; American Wire Weavers Protective Association.

Independent unions: Brotherhood of Locomotive Engineers; Brotherhood of Locomotive Firemen and Enginemen; Brotherhood of Railroad Trainmen; Order of Railway Conductors; American Association of Train Dispatchers; International Association of Machinists.

2. Unions habitually excluding Negroes by tacit consent:

AFL affiliates: Asbestos Workers, Heat and Frost Insulators; International Brotherhood of Electrical Workers (craft locals only); Granite Cutters' International Association; United Association of Journeymen Plumbers and Steamfitters.

Independent unions: Marine Firemen, Oilers, Watertenders, and Wipers Association, Pacific Coast; Brotherhood of Railroad Shop Crafts.

3. Unions confining Negroes to Jim Crow "auxiliary locals":

AFL affiliates: Brotherhood of Boilermakers, Iron Shipbuilders, and Helpers; Brotherhood of Railway Carmen of America; National Federation of Rural Letter Carriers; Seafarers International Union; Sheet Metal Workers' International Association.

Independent unions: American Federation of Railroad Workers; National Rural Letter Carriers' Association.

The first group includes unions like the Brotherhood of Railroad Trainmen, whose constitution states that "any white male" is eligible for membership. The second group is "lily-white" by tacit understanding; for example, a Negro applicant may be rejected as "incompetent"—as always appears to happen to Negro plumbers who apply for admission to the United Association of Plumbers and Steamfitters of the United States and Canada, although the Negro plumber in question may be a first-class mechanic.

The third group, admitting Negroes to a "second-class" membership in Jim Crow "auxiliaries," under rules which deny them any voice in union affairs or an opportunity to be promoted to better jobs, is exemplified by the Brotherhood of Blacksmiths, Drop Forgers and Helpers, whose constitution formerly stated: "Where there are sufficient number of colored helpers they may be organized as an auxiliary local and shall be under the jurisdiction of the white local having jurisdiction over that territory. . . . Colored helpers shall not transfer except to another auxiliary local composed of colored members and colored members shall not be promoted to blacksmiths or helper apprentices and will not be admitted to shops where white helpers are not employed." Recently, however, the Blacksmiths deleted this clause and now admit Negroes to equal membership.

Although the racial restrictions of these discriminatory unions were aimed primarily at Negroes, they are applied also to other non-whites, particularly those of Oriental extraction. In fact, many discriminatory clauses found their way into union constitutions as a result of the combined voting power of southern members, who were aiming at the restriction of Negroes, and far western members, mindful of the Chinese or Japanese "menace."

In a few organizations, Orientals have fared worse than have Negroes. The Journeymen Barbers' Union, AFL, which admits Negroes, excludes Orientals. West Coast unions have long been in the forefront of anti-Oriental agitation, ostensibly as a protest against "cheap labor." The war against Japan intensified this attitude.

Discrimination against Jews by trade unions is quite uncommon. Only one unimportant union, The American Wire Weavers Protective Association, AFL (300 members), specifically limits its membership to "white Christian Americans." During the war, this restriction was deleted from the published constitution in order to avoid censure from the National War Labor Board. However, there has been no actual change in either the union's by-laws or in union policy in this regard.

Although formal restrictions against Jews are virtually non-existent in trade union constitutions, anti-Semitism is found in a number of industries, e.g., air and rail transportation, engineering and chemicals, banks and financial institutions. The unions which operate in these industries appear to be in full accord with discrimination of this character.[27]

In contrast to these discriminatory provisions, at least 47 unions expressly protect the right of workers to join regardless of race. Such provisions vary from explicit provisions that "no worker otherwise eligible to membership shall be discriminated against or denied membership because of race" (Woodworkers, CIO), or that any discrimination because of race will be punishable by a fine of $100 (Bricklayers, AFL), to simple provisions that all eligible members "regardless of race" shall be admitted (United Mine Workers).[28]

In general, racial admission policies are determined and controlled by the national union. There have been important exceptions. Locals of the Bricklayers and United Automobile Workers have discriminated against Negroes despite contrary national union policies; and locals of the Machinists and Boilermakers have admitted Negroes on an equal basis in spite of national union discriminatory rules.[29] These local variations have been the exception rather than the rule.

Despite the progress in eliminating it, racial discrimination by a few unions remains a blot on the labor movement. The fact that the record of the labor movement is superior to that of most other facets of American life in race relations matters does not reduce the need to eliminate race discrimination in unions.

Exclusion Because of Non-Citizenship

The traditional policy of American labor has been to curtail immigration. With employers recruiting immigrants as a source of cheap labor and as strikebreakers and with the traditional job scarcity consciousness of the AFL, the labor movement was the chief source of opposition to unlimited immigration prior to World War I. This was true despite the fact that the unions were built predominately from immigrant workers in many areas of the country. A direct result of union opposition to unlimited immigration has been widespread discrimination against aliens by the American labor movement. A recent survey found that 22 unions require as a prerequisite of membership that workers must have filed a declaration of intent to become a citizen. Four additional ones required in addition that the worker become a citizen as soon as possible. The Marine Cooks' and Stewards' Association of the Pacific Coast, a left-wing CIO union, requires workers to be "eligible for citizenship."[30] This last provision is really race discrimination since its obvious purpose is to prevent orientals not eligible for citizenship under the Oriental Exclusion Act from joining the organization.

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[27] For examples, see H. R. Northrup, "Race Discrimination in Trade Unions," *Commentary*, 2:126–129 (1946).

[28] C. W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, 61:26–70 (1946).

[29] See H. R. Northrup, *Organized Labor and the Negro* (New York, Harper and Brothers, 1944), *passim*, for examples.

A few of the smaller unions have discriminatorily high initiation fees for alien workers. The American Wire Weavers Protective Association, which it will be recalled is limited to white Christian Americans, charges foreign workers a special initiation fee of $1000. Fortunately this AFL affiliate has a membership of only 300.

The extent to which citizenship requirements are still enforced in unions varies considerably. A great many of them are dead letters, having no force or effect, but a survey by the American Civil Liberties Union in 1943 found that a number of the unions in the New York City area were rather strictly enforcing the requirement of citizenship. In view of intense nationalism which has followed World War II it would not be surprising if citizenship requirements for admission to unions increase rather than decrease in importance.

Exclusion Because of Political Affiliations or Beliefs

A survey in 1946 found that at least 30 international unions with a total of nearly 4,000,000 members have constitutional provisions denying the right to join because of political affiliation or beliefs and that with one exception all these clauses expressly or inferentially pertain to Communists. Other political organizations which were included in this list were Nazis, Fascists, German-American Bund, Ku Klux Klan.[31] In view of the intensity of the split between Communists and non-Communists in the American labor movement today, it is likely that the number of unions adopting bars against Communists has increased since that survey.

The extent to which a union should be permitted to bar persons because of their political beliefs has long been debated within and without the American labor movement. The problem usually narrows down in actual fact to the question of Communism. The reasons given for the exclusion of Communists is that they are attempting to convert the union to an instrument of an outside political party. These charges are usually correct, but experience with bars to Communists as members has been that such provisions are used to exclude any personnel antagonistic to the current union administration.

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[30] C. W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, **61**:73 (1946).

[31] C. W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, **61**:75 (1946).

Exclusion Because of Sex

Although women wage earners have been part of the labor movement since its formation, many American unions at one time denied women membership in their organizations. Many of these unions, however, were found in trades where the number of women employed was small. Their admission policies, therefore, were merely attempts to institutionalize the status quo.[32]

More recently the unions have been dropping exclusions against sex as women have more and more entered the labor market. In 1944, for example, the Brotherhood of Boilermakers and Ship Builders was embarrassed to have a bar to women members in its constitution in view of the large number of women who were employed in wartime ship yards. After admitting women for some years in disregard of the bar, it was finally deleted.

Today all but eight unions have eliminated their constitutional provisions excluding women, and all crafts but three of these are found in railway crafts in which women are not ordinarily employed.[33]

Exclusion of Rival Union Members

Intense competition among unions for membership coupled with the traditional policies of exclusive jurisdiction for one union in a particular trade or industry has resulted in a number of unions adopting constitutions which provide that members of rival unions are ineligible to membership in their organizations. In the older union constitutions one still sees bars aimed at the IWW and, on occasion, even the Knights of Labor. The problem, however, is more acute in view of rival unionism which exists today. In a number of cases the National Labor Relations Board has ruled that a union cannot sign a closed or union shop agreement and then deny membership to members, or former members, of a rival union. This takes a considerable amount of the effectiveness out of efforts to settle union rivalries by exclusion policies.[34]

Closed Unions

Sometimes unions refuse admission to any newcomers, or accept only a favored few, e.g., relatives of members. Such unions are found almost exclusively among the highly skilled or strategically located groups who alone are in a position to control entrance to the trade. In addition, closed unions may be found in industries where employment is casual or seasonal (maritime, garments), and where unions attempt to secure employment for members.

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[32] F. E. Wolfe, *Admission to American Trade Unions* (Baltimore, Johns Hopkins Press, 1912), pp. 74–95.

[33] C. W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, **61**:77–78 (1946).

[34] The NLRB developed this policy prior to the enactment of the Taft-Hartley Act, and it was affirmed by the Supreme Court in *Wallace Corp. v. NLRB*, 65 Sup. Ct. 238 (1944).

The closed union is usually a local organization. Generally, national unions are opposed to a policy which limits union membership and may create a sizable group of potential strikebreakers. The local leadership, however, is under pressure to give preference to local members—even at the expense of members from other locals—and closing the union books is one way to achieve this result.

The extent to which the closed union exists is not known. Most frequently, it has occurred in the building, amusement, and printing trades, the local delivery business, diamond cutting, and mirror manufacturing. In periods of depression, it has extended to the seasonal and casual trades and even to such industries as mining.[35]

REASONS FOR UNION EXCLUSIONARY POLICIES

The fact that some trade unions limit their membership should not be regarded as too extraordinary. A great many barriers against economic opportunity are sought by a wide variety of organizational groups—farmers, business, professional as well as labor organizations—this is only one of several. Moreover, the policies used by unions to bar admission are like those of other groups. Consider, for example, the successful attempts of the American Medical Association to limit the number of doctors (or to use the AMA's terminology, "prevent overcrowding of the profession"). In the course of its activities the AMA has used licensing laws, race discrimination, discrimination against aliens, and other equally antisocial means of preserving the medical profession for those who are already in it.[36]

Whether a labor organization, a professional society, or a business organization, the reasons for restricting entry are usually the same: work scarcity consciousness, dictated by fear of unemployment. Thus it has already been noted that unions are more likely to close their books in depressions than in prosperity. And, also it is true that race prejudice is a relatively insignificant factor in the discrimination against Negroes. Undoubtedly, the most important reason for such discrimination is the fact that the color line provides a convenient method of limiting the market.

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[35] C. W. Summers, "Admission Policies of Labor Unions," *Quarterly Journal of Economics*, **61**:78–80 (1946); S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 2 and 3.

[36] See Oliver Garceau, *The Political Life of the American Medical Association*, (Cambridge, Harvard University Press, 1941); and M. Friedman and S. Kuznets, *Income from Independent Professional Practice* (New York, National Bureau of Economic Research, 1945), pp. 11–21.

Public policy generally condemns the closed unions. Nevertheless, the case is often not a clear-cut one. For example, in depressed times when unemployment among union members in the maritime industry is significant, unions typically "close their books." Because of the hiring hall system whereby men are employed in rotation for available jobs, the effect of admitting new members would result in a further sharing of unemployment in a particular industry where unemployment among those already attached to the industry is severe and where employment even in ordinary times is casual and intermittent. One may therefore question whether blanket outlawing of closed unions under all circumstances is wise; or, if such outlawing is accomplished, whether it ought not to be accompanied by some type of regulation designed to prevent further concentration of the unemployed in already depressed industries or areas.

Judicial Procedure in Unions

PENALTIES

In the conduct of their affairs, unions have found it necessary to establish a list of offenses for which penalties may be assessed against the members.

> A wide variety of activities are held punishable, and the unions can impose a reprimand, fine, or other penalty for the commission of the prohibited offenses. An examination of the constitutions of eighty-one unions shows that punishable conduct is defined both generally and specifically. (Minor offenses, such as disobeying the presiding officer at a meeting, have been disregarded.) Eight of the punishable offenses are general in character. These are (1) violation of the constitution, by-laws, rules and laws of the union or its subordinate branches, (2) disobeying orders of officers, (3) slandering an officer or member, (4) circulating written material among members without permission of the union officers, (5) creating dissension, (6) undermining the union, (7) participating in outside meetings where union business is discussed, and (8) commission of a dishonorable act injurious to the labor movement or to the union. Fifteen other offenses have been listed. All of them, except advocating the formation of or joining a dual union, are specific in character. While it has reference to a specific act, advocating or joining a dual union can be used against members advocating changes within the union and informally combining to achieve this aim. Specific offenses include personal acts such as drunkenness and working at a gambling house and violation of trade rules. The latter includes strikebreaking, working with non-union men where such conduct is forbidden by the union, and failure to conform to union wage policies or to other requirements of the union in regard to conduct on the job.[37]

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[37] Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics,* **59**:377–378 (1945).

Anyone familiar with the realities of union organization realizes that unions must have some protection against those who would convert the union into instruments of outside organizations, e.g., the Communist Party, or those who are agents of the employer, labor spies, or provocateurs. Moreover, if unions were unable to enforce any penalties whatsoever against members, workers who violated union contracts with management could not be disciplined by the union. Indeed,

> We must, however, remember that a union must regard the conduct of its members from the point of view of the union's survival. The judicial procedure of the union is not an instrument for dispensing abstract justice, but is a means for keeping the union intact and effective. We are therefore not dealing with a problem of absolute justice, but with the possibilities of an individual securing a maximum degree of justice under a given institutional arrangement. Unless we are willing to concede the union's right to exercise control over its membership within its allotted sphere, any penalty the union inflicts would be a negation of justice. Such a summary view leads to a final and complete denial of the union's right to impose punishment for any cause, and inferentially denies the right of the union to exist or to function.[38]

On the other hand, the vagueness and general character of offenses found in union constitutions are a grave peril to the civil rights of its members. One of the worst abused is the prohibition against slander. No constitution defines "slander."[39] Yet it is often invoked to insulate union officialdom against criticism. The same is true of "creating dissension," or discussing "union business" in public. In March 1948, intervention of the American Civil Liberties Union and the New York State courts was necessary to prevent Communist-dominated officers of a local of the United Electrical, Radio and Machine Workers from expelling rivals on charges of publicly airing "union business" because the latter had charged the incumbent officers with being "members of the Communist party which is an agent of the Soviet Union."[40] Such events have led one union official to declare that the "ordinary rank and file union member frequently enjoys less freedom in relation to his own union leader than he does in relation to his employer . . . Members of unions . . . are on occasion exposed to severe penalties for exercising rights . . . that are specifically guaranteed by the law of the land."[41]

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[38] Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics*, **59**:377 (1945).

[39] Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics*, **59**:379 (1945).

[40] From files of American Civil Liberties Union.

[41] Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall 1943), p. 405. Mr. Herberg is an official of the International Ladies Garment Workers' Union.

PROCEDURE

Charges against a union member are typically filed by another member. Invariably they must be in writing and be served on the accused. A trial committee is then usually appointed by the local president or elected by the local. The committee hears testimony and renders a decision which usually is reported to the local membership for action. A guilty verdict often requires more than a majority vote—two-thirds or three-fourths—usually by secret ballot. Penalties vary from reprimands and light fines ($5) to expulsions and heavy fines ($100–500).

Virtually all unions provide for appeals through the union hierarchy. A frequent course is for appeal to the regional office, thence to the international president and/or executive board, and finally to the international convention.[42]

In addition to this procedure, a number of unions grant their international president specific authority to initiate and/or hear charges against local members or local unions. Other unions permit the president to order a local to try a member, and to take action if the local refuses to comply.[43]

Status of Members During Appeal

An examination of 126 union constitutions, AFL, CIO, and independent, found that in 52 unions, an appeal does not suspend the verdict, whereas in only 5 is the penalty vacated pending the outcome of an appeal. Twenty-six constitutions provide for a stay of verdict under some conditions, only one for complete restitution in case a higher tribunal overturns a guilty finding, and forty-two did not define the status of the appellant. The latter in practice usually enforce the verdict pending appeal unless the international officers intervene in the defendant's behalf. There was no significant variation among AFL, CIO, and independent unions.[44]

Analysis of Union Judicial Procedure

Justice requires trial before an impartial jury, a full and fair hearing, and speedy determination of cases, including the appeal. Union judicial procedure does not stand up well under these criteria.

In the first place, the accuser may unduly control the jury, or in some unions may actually constitute it. Potential witnesses for accused can be intimidated and general fair play denied.

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[42] Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics*, **59**:381–383 (1945).

[43] Philip Taft, "Judicial Procedure in Labor Unions," *Quarterly Journal of Economics*, **59**:383–384 (1945).

[44] Philip Taft, "Status of Members in Unions During Appeal from a Penalty Imposed by the Local Union," *Quarterly Journal of Economics*, **62**:610–616 (1948).

The infliction of the penalty prior to the completion of an appeal is a severe hardship in many cases. An appeal to a convention which may not meet for five years is often an empty right, especially if the penalty is enforced meanwhile. Moreover, conventions are large legislative bodies basically unable to give the time and study to appeals from disciplines or other judicial functions. The lack of an independent judiciary which effectively protects the dissenter against reprisal is one of the most fundamental defects in trade union government.

GOVERNMENT INTERVENTION

The weakness of the union judicial systems is further worthy of emphasis because of the reluctance of courts to interfere in internal union affairs. Traditionally, the courts have regarded unions as private bodies without a vested public interest. Hence, they would not intervene in behalf of workers disciplined by unions unless the worker was denied the forms of a fair trial, i.e., fair according to the union rules, or else fair in general terms if the union rules contravene public law or policy. Moreover the courts frequently require union members to exhaust internal remedies before accepting a case—which means appealing first up the union hierarchy to a convention before bringing the case to the courts. Court litigation is, moreover, costly and uncertain in outcome because of the numerous technicalities involved. As a result, the American Civil Liberties Union recently proposed a law establishing a special tribunal for appeal from union discipline cases. A frequent suggestion is that the AFL and the CIO establish such a tribunal. To date the main legislative result is a provision in the Taft-Hartley Act preventing unions from causing the discharge of workers through union shop agreements (the same law outlawed the closed shop) except for non-payment of dues. This mitigated the effect of expulsions from unions, but still permitted union officials arbitrary authority to expel opponents.

Determinants of Union Structure

The structure of union government is determined by a wide variety of elements which grow out of the practical needs of the organization, the desires of the various interests represented in the organization, the influence of fellow and rival organizations, the effect of law, or the struggle for power. An examination of these factors in this section will be followed by a section on the influence of the locus of union control in collective bargaining.[45]

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[45] This section is based primarily on J. Shister, "Trade Union Government: A Formal Analysis," *Quarterly Journal of Economics*, 60 (1945).

Coördination of Local Union Policies in Collective Bargaining

National unions have been forced to take over authority from locals in order to insure that uniform wage and working condition policies will be followed. This is especially important when union members travel, as in the case of musicians and actors. Amusement trade unions traditionally negotiate on a local basis, but provide that the rates of the traveling personnel shall be nationally controlled. Similarly, the building trades unions, which bargain on a local basis, are often required by national rules to adopt uniform scales. The failure to do this leads to chaos in collective bargaining. An example is the case of the truck drivers' strike in New York City in 1948, which was considerably prolonged because rival leaders of two locals of the Teamsters' union were each jockeying to secure superior settlements over the other, instead of agreeing beforehand on common terms.

Even unions where the tradition of local control is strong regulate the limits of local collective bargaining. Local agreements in the Typographical Union must be submitted to the national union for approval, and the United Automobile Workers has created departments which do the primary bargaining with such multi-plant concerns as General Motors, Chrysler, and Ford.

When collective bargaining goes from the local to the regional or national stage, the power of the local union wanes. Centralization of authority in the United Mine Workers has obviously been furthered by the development of national collective bargaining. On the other hand, regional systems of collective bargaining, such as exist in the Pacific Coast pulp and paper industry, have the effect of creating semiautonomous organizations within national unions. Especially, if the region is large, it becomes self-sufficient and needs little national assistance in collective bargaining. Its officers and membership are therefore not likely to submit too meekly to close national union supervision.

Membership Characteristics

The division of the membership of a union along craft, industry, racial, or geographical national lines often results in semiautonomous divisions within unions and in special provisions for representation for specific groups. Thus, the Textile Workers Union has separate departments for its cotton textile, woolen and worsted, rug and carpet, dyeing and finishing, and hosiery branches. And the last two are virtually independent because they were in existence as going concerns before the national union was organized. Similarly, the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees is careful to elect officers who represent the various crafts. Failure to do so in the 1920's led to a temporary secession of the expressmen.

When the mine and steel unions first organized southern sectors of their industry, they made a practice of influencing the election of white presidents and Negro vice-presidents of local unions. Gradually, their equalitarian programs have overcome prejudice so that southern locals now often have Negro presidents. The three-man local grievance committees of southern West Virginia mines are often composed of one native white, one immigrant from southeastern Europe (or descendant thereof), and one Negro, thus giving representation to the "judicious mixture" of races and nationalities which employers in this area purposely employed at one time to forestall unionization.[46]

Traditionally union vice-presidents and regional directors are elected with due regard to geographic representation. In addition, most unions have a special officer, either vice-president or regional director, for Canada. This process of satisfying various interests and areas is very similar to the method adopted by the federal government in handing out patronage.

ADMINISTRATIVE DETERMINANTS

"Numerous elements of union government stem primarily . . . from administrative problems encountered by the organizations in question."[47] For example, unions discovered at an early date that strike control would have to be centralized to some extent if the unions were to be preserved. This was necessary to prevent "quick on the trigger" locals from striking on the slightest provocation and thus costing the union and members thousands of dollars for strike benefits, legal and publicity charges, etc. Strike control by national unions takes two forms. In many cases, no strike can be called without approval of the national union executive board. In others, any strike which is called without national union approval deprives the strikers of strike benefits or other such national union help.

Likewise, various unions' benefit plans are usually closely controlled by the national union because of administrative and actuarial considerations. Sad experience with actuarially unsound benefit plans has prompted this development.

The frequency of conventions in many unions is determined by financial situations. The growing tendency on the part of unions to have conventions once every two to five years instead of annually has been prompted in many cases by the high cost of conventions which may run well over a million dollars. In recent years about the only thing which President Walter Reuther and his opposing factions within the United Automobile Workers could agree upon was the desirability of holding conventions biennially instead of annually. The high cost of conventions brought agreement on this subject. Nevertheless, the rank and file, desirous of "keeping an eye on the bureaucrats" have voted down such proposals at UAW conventions by three to one margins.

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[46] H. R. Northrup, *Organized Labor and the Negro* (New York, Harper and Brothers, 1944), chap. 7 and 8.

[47] J. Shister, "Trade Union Government: A Formal Analysis," *Quarterly Journal of Economics*, **60**:89 (1945).

The provision that the expenses of local delegates be paid from national treasuries is likewise dictated by financial considerations because many small locals cannot afford the cost of adequate representation if a convention is to be held in a distant place. A survey in 1945, however, found that only 38 out of 167 national union constitutions examined provided for the payment of expenses by the national.[48]

Effect of Rival Unionism

The development of rival unionism on a mass scale since 1936 has materially affected union government. In order to protect themselves against secession of locals, some unions, for example, the Glass Bottle Blowers Association, vested their executive officers with extraordinary power to expel or suspend local officers who have been flirting with rival unions. In many other cases the advent of rival unions forced existing unions to open their doors to members previously barred. For example, a number of unions which admitted only skilled workers (Flint Glass Workers and the International Molders and Foundry Workers Union of North America) admitted unskilled workers in order to prevent the latters' organization by the CIO. A number of other unions such as the Hotel and Restaurant Workers and the Commercial Telegraphers Union of North America removed bars to Negro membership because of the threat of rival unions. On the other hand the existence of a union with discriminatory racial policies has often caused a rival union which ordinarily does not discriminate to soft pedal its equalitarian program in order not to alienate the dominant white membership.[49]

The Effect of Legislation and Court Decisions

Trade union government is often shaped by laws or the decision of administrative bodies or courts. For example, the adoption of state antidiscrimination legislation has induced a number of unions to delete racial bars from their constitutions. Decisions of the National Labor Relations Board, placing certain groups of workers in bargaining units, have compelled unions to admit employees whom they might not otherwise have admitted. For example, if the NLRB declines a union request to separate skilled from unskilled workers, the petitioning union has the choice of opening its doors to the unskilled as well as the skilled or facing the possibility of losing the right, as a result of the adverse votes of the unskilled, of representing either skilled or unskilled. Moreover, unions have been forced to take cognizance of the fact that once they are certified by a government agency as an exclusive bargaining agent, they must represent all the workers within the bargaining unit without discrimination.[50]

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[48] J. Shister, "Trade Union Government: A Formal Analysis," *Quarterly Journal of Economics*, **60**:90–91 (1945).

[49] H. R. Northrup, *Organized Labor and the Negro* (New York, Harper and Brothers, 1944), *passim.*

In a number of cases the courts have ruled that union leadership did not have authority under the union constitution to take specific acts—for example, to expel a member. In a number of instances the union has thereupon amended its constitution, granting the officers the necessary authority.

IMITATIVE ELEMENTS

Many union constitutional provisions result merely from the fact that the writers of the constitutions copied similar provisions from the constitutions of older organizations. The constitution of the first permanent union, the Typographical Union, was copied from that of the Right Worthy Grand Lodge of the Independent Order of Odd Fellows, and then gradually was amended to suit the needs of the union. Recently, when the International Mailers' Union seceded from the Typographical Union, it adopted a constitution which strongly resembles that of its parent. On the other hand the constitution of the International Printing Pressmen's and Assistants' Union of North America which seceded from the Typographical in 1889 does not resemble that of its parent. For it has been converted into as much of an instrument of dictatorship as the constitution of the Typographical Union is an instrument of democracy.

The imitative element is also strong in railroad union constitutions. Nearly all have a part copied closely from that of the first rail union, the Brotherhood of Locomotive Engineers.

POWER ELEMENTS

A number of union constitutional provisions can only be explained by the desire to increase the power of given individuals or groups. Thus, the provision which was in the constitution of the Air Line Pilots Association prior to 1948, and which gave one vote to each pilot and one vote to every two co-pilots, was clearly designed to insure pilot control. In the same vein, the International Brotherhood of Electrical Workers gives one vote per member in conventions to locals of craftsmen whose members are designated as Class A, but only one vote per hundred members to industrial locals whose members are designated as Class B members. The Carpenters is even more discriminatory against industrial locals, permitting them only one vote per local in conventions as against one vote per member for craftsman. These discriminatory provisions were directly responsible for the formation of rival CIO organizations.

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[50] See *Steele v. Louisville and Nashville Railroad*, 65 Sup. Ct. 227 (1944). The technical aspects of NLRB bargaining unit determination will be discussed in Part VI.

Quite similar are discriminations against minority groups such as provisions for the establishment of all-Negro auxiliaries which are obviously created for the purpose of controlling the competition of Negro workers without at the same time giving them either a voice in union affairs or the effective control of their own working conditions. Numerous other examples could be given of rules which tend to insure control by a particular group in unions.

Other union provisions are obvious instruments of individual or national control. The vast power given the President of the Musicians' union or that given the President of the United Mine Workers is illustrative.

The Locus of Union Control and Its Implications

The locus of union control in collective bargaining with management affects the resultant agreement, and hence the economic pattern of the labor market. In general, the locus of control has gradually shifted from the local union to the national organization.[51] This shift was already apparent in the United States at the turn of the century; and the pioneer work on the government of English unions observed the same tendency.[52]

NATURE OF UNION CONTROL OVER LOCAL BARGAINING

The reasons for national assumption of control of bargaining have already been noted. It stems primarily from the problems of traveling members; the desire to prevent competition between locals for wage rates or employment and the consequent desire for the greatest possible uniformity of wages and working conditions for workers operating in the same product markets; and the extent of the scope of bargaining beyond the local jurisdiction, a development of the desire for uniformity.

The nature of national union control over local bargaining varies considerably. We have noted that some unions set limits or boundaries to which local negotiators must conform or else they require local contracts to be approved by the national office before becoming effective; others like the United Automobile Workers negotiate with multi-plant companies through "departments" which remove control from the local. In case of national bargaining, national control is *ipso facto* in the national officers' hands. In the latter two cases, however, purely local conditions are commonly left to supplementary local negotiations.

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[51] See J. Shister, "The Locus of Union Control in Collective Bargaining," *Quarterly Journal of Economics*, 60:513–545 (1946).

[52] Beatrice and Sidney Webb, *Industrial Democracy* (London, Longmans, Green & Co., Ltd., 1900).

The highly technical business that is modern collective bargaining requires most national unions to maintain research statistical and legal departments. Locals frequently utilize these national services which in turn can be counted upon to stress national union policy. Similarly, national union representatives often play an important role in local bargaining. Such organizations as the United Steelworkers, which have been organized from the top down, have been featured by national union control of local bargaining.

Too tight national union control of local bargaining has often brought strong local reactions. Agreements made by national union leaders have on a number of occasions been repudiated by local union memberships who felt either that their interests were insufficiently considered, or that they were not sufficiently consulted beforehand.

Within a single organization, there may be conflict between "high wage" and "low wage" locals over the extent of national control. The former, fearful that they will lose business to the latter, are likely to plump for strong national control in the interests of uniformity. Because of the marginal character of many employers with whom the low wage locals deal, they are likely to oppose these policies. The fight between these two groups is a feature of many Typographical Union conventions.

The Formulation of Demands

Although negotiations may be controlled to a considerable extent by the national officers, it is typically the local members who formulate demands. To be sure, the formulation of demands is tremendously influenced by the national leaders. To cite a few classic examples: Many miners who were on strike in 1946 for a "welfare fund" were at best only vaguely familiar with the meaning of the term; and although Walter Reuther's demand that General Motors "open the books" to prove inability to pay had the majority support of the striking auto workers in 1946, few could discuss the meaning of the demand in concrete terms.

Nevertheless, the fact that members formulate demands is tremendously important, despite the influence of leaders, and also despite the fact that all too few unionists are active in their organizations. For one thing, member formulation acts as a sounding board of worker wants. Even the most dictatorial union leader cannot ignore such obvious rank and file wishes. Then too the reaction of union members to settlements is often a function of the relation of results to requests. If the former vary too significantly from the latter, labor leadership must be ready with explanations. Otherwise, intraunion rivals have grist for their political mills.

Customarily, demands are formulated at local meetings, in some cases on the basis of leadership proposals, in others after presentation by a special committee, and in others after direct suggestions from the floor. When more than one local is involved, union rules often call for joint committees of the locals to unify demands. Regional bargaining requires machinery similar to that of the Pacific coast paper unions where "organizers of the two collaborating unions draw up a tentative agreement which forms the basis for discussion in the local unions. The locals submit their amendments to a general association meeting held just prior to bargaining conferences."[53] Demands of unions engaged in national bargaining are usually formulated at national conventions (miners, pottery workers) or at special national conferences (railway employees).

One of the effects of rank and file formulation of demands is likely to be that the demands are excessive both in number and amount. Everyone has his favorite recipe. This in turn leads on occasions either to disgruntlement with results or to strikes because extraordinary demands are not met. It is one of the costs of democracy.

Negotiating Personnel and Its Powers

The Negotiating Committee in most unions is appointed with an eye to representation of the various groups within the organization. The various crafts, geographical areas, races, or nationalities are likely to be represented on any negotiating committee. It is quite common for union constitutions to require that negotiating committees provide for adequate geographical or trade representation. Only a few unions such as the Air Line Pilots Association or the International Hod Carriers', Building and Common Laborers' Union grant almost blanket power to union officials to act automatically as the negotiating committee.

In actual practice negotiations are frequently carried on by a subcommittee of the negotiating committee. This is often a practical necessity since negotiating committees are frequently too large and negotiations become unwieldy when all members participate. Some union constitutions provide for the election of a subcommittee. Others do so in practice. In still others, the union president becomes the subcommittee. In the case of the United Mine Workers, which has a wage policy committee of more than 100 members, John L. Lewis is the actual negotiator. President Philip Murray of the United Steelworkers who served as an official of the United Mine Workers for many years has also become the de facto negotiating subcommittee in the Steelworkers negotiations with the United States Steel Corporation.

Power of negotiating committees or subcommittees varies considerably. At the local level the committee is rarely given full authority to settle without rank and file approval of the terms. However it is quite frequent for the rank and file to give a negotiating committee power of settlement after negotiations have proceeded for some time or have reached an impasse where a prompt decision is essential.

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[53] N. W. Chamberlain, *Collective Bargaining Procedures* (Washington, American Council on Public Affairs, 1944), p. 12.

In general it is probable that most local leaders would not want complete power of settlement. The reason is that if they make an agreement without specific rank and file approval, they will be held strictly accountable for the results, and the net effect of the accounting may well be defeat for reëlection.

On the other hand, most national leaders would prefer the power to settle. They feel that they are capable of securing the best settlement possible, and that the rank and file, which is often without knowledge of the peculiar problems involved in negotiations, will demand more than can possibly be obtained and thus force the union into costly strikes which it has no hope of winning.

The case for granting union officials the power of settlement is formidable. Nevertheless, the requirement that all terms be referred to the rank and file is a powerful check on union leadership which is probably best retained. Moreover, even in cases where union leadership possesses the right to settle, rank and file revolt may effectively curtail that right. For example, in October 1945, President-for-life Joseph Ryan of the International Longshoremen's Association was forced to renegotiate a contract with the New York Ship Owners after a membership revolt tied up the Port of New York with a wildcat strike.

Another reason why granting full power of settlement to the leadership is undesirable sociologically, even if economically the leadership would reach the soundest bargain, is that there is a great deal of educational value in worker participation in collective bargaining. With the exception of times when there are political contests within the union, negotiations for new contracts cause the greatest turnout to meetings and the greatest general workers' interest. Service on negotiating committees, participation in discussion over terms of settlement and the interest which these activities arouse build union leadership for the future and assure an element of democracy in unions.

National collective bargaining, however, does not appear to afford the opportunity for full discussion for settlement on the local level unless it is possible to have the contract discussed and voted upon at local meetings all over the country. With hundreds of locals involved, as in the case of the United Mine Workers, this is impractical. Moreover the referendum is no substitute since it does not permit argument and discussion which is the essence of the educational process. A truly representative national bargaining committee with an effective voice in negotiations appears to be the most practical body to approve or reject contracts where national or regional collective bargaining exists.

In a few industries where workers are organized by a number of craft unions, coöperative bargaining has developed so that the locus of control of collective bargaining on the union side has been transferred from a single national union to a group of unions. Such a situation occurs in the printing and building trades in many areas, in shipyards organized by the AFL Metal Trades Department, on the railroads, and in the west coast pulp and paper industry. In these instances the usual procedure is for the unions to appoint a joint committee or act through a joint organization which they have set up in order to present a united front to management.

Joint union action of this type has been hindered to a considerable extent by the fear, on the one hand, that strong unions will have their bargaining power reduced by joining with weaker ones; and on the other hand by the fear on the part of some labor leaders that the net effect of coöperative action will injure their political standing within the union or within the labor movement. Thus, the Bricklayers, Masons and Plasterers International Union of America, which was organized in 1865, did not join the AFL until 1916, because as the most successful building trades union at that time, it had no desire to be forced to observe picket lines or to engage in sympathetic strikes in behalf of its weaker fellow organizations. In other cases, unions have declined to coöperate because they prefer to nibble away at the employer. Some craft unions feel that they can gain more because a concession to one will cost the employer considerably less than a concession to all crafts. Usually, however, a follow-the-leader policy develops so that under the nibbling process the employer pays more in the long run.

The railroad unions afford the classic example of union policies which hinder coöperative effort. More than 21 unions have split in recent years into three camps. All make separate demands upon employers, apparently in the hope (thus far unsuccessful) that one group can gain more than the others. The net effect in recent years has been one nation-wide railroad strike and the narrow avoidance of several others.[54]

Democracy and Bureaucracy

Charges that unions are "undemocratic" have been quite commonly made over the years. With such charges are usually catalogued the various practices for which unions are criticized: denials of free speech, arbitrary actions of one sort or another, etc. That these practices exist in some unions is clear. Indeed, the preceding sections have pointed out many of them.

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[54] See. H. R. Northrup, "The Railway Labor Act and Railway Labor Disputes in Wartime," *American Economic Review,* **36**:324–343 (1946).

No discussion of union democracy has meaning, however, without a prior inquiry into the meaning of the term when applied to unions and an analysis of effects of democratic unionism on collective bargaining.[55]

It is first essential to point out that democratic government is not essentially "good" or "effective" government. Some of the best run unions in the country from the point of view of economic returns to membership, responsibility, financial integrity, etc., cannot be considered democratic. The Amalgamated Clothing Workers and the United Steelworkers are cases in point.

"Conversely, an analysis of the administrative efficiency or structural perfection of a governmental system cannot prove anything about its democratic or undemocratic character. . . . An example is the growing centralization of authority in national union headquarters."[56] In most cases there is no evidence that centralization has progressed farther than economic circumstances require. Moreover, on occasion national union control leads to more liberal policies. For example, unions are less likely to close their books or to bar workers because of race if the national is in control of admission policies than if the local exerts such control.

The excessive delegation of authority, both executive and legislative, to union leaders, who in turn employ a large appointive bureaucracy, is not *per se* a structural defect of large political units. It endangers democratic principles, but is not proof of lack of democracy.

Moreover, unions meet fairly well the key structural requirements of democratic government—general suffrage, free election of legislators, and control by the legislators of expenditure of funds and other executive actions. To be sure, the governments of unions frequently vary widely from the constitutional forms and in actual fact most unions are operated by political machines, the members of which have a vested interest in perpetuating themselves in office.

The existence of political machines, however, is not an anti-democratic element *per se*. Political machines are an important element in all democratic governments. "If the advent of democracy depended on the dissolution of all informal political groupings (machines) and on the appearance of pure-hearted leaders, we should wait a long time. Actually, democracy requires only that there be reasonably free competition among rival machines, and that the self-interest of union leaders be canalized in directions beneficial to the membership."[57]

Where general suffrage and free elections exist, the existence or lack of democracy cannot be tested by the extent to which leadership acts in the "interest of the membership." The plain fact is that neither the members, the leaders, economists, nor newspaper editors can be certain where the "interest" of the membership lies. We have just noted that the demands of the rank and file can lead to costly strikes which a union dictator might have avoided to the economic benefit of all.

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[55] See discussion by Lloyd G. Reynolds, *American Economic Review, Proceedings*, **36**:380–383 (1946).

[56] Lloyd G. Reynolds, *American Economic Review, Proceedings*, **36**:380–381 (1946).

[57] Lloyd G. Reynolds, *American Economic Review, Proceedings*, **36**:381 (1946).

"There remains . . . a more searching test of democratic procedure: Is the union member free to criticise the local or national officers of his union and to work openly for their defeat at the next election? Is there a judicial system which effectively protects the dissenter against expulsion from the union or other forms of political reprisal?"[58] The evidence already presented in this chapter indicates that many unions do not fare well if judged by these criteria. "Here, then is the core of the problem of union democracy. If there is need to 'do something about it,' the need lies in this direction."[59] First, however, it is essential to understand how the problem came into being. The explanation lies essentially in the dual nature of the modern union which, at one and the same time, is

> (1) a businesslike service organization, operating a variety of agencies under a complicated system of industrial relations; and (2) an expression and vehicle of the historical movement of the submerged laboring masses for social recognition and democratic self-determination. This irreducible duality of nature necessarily results in a fundamental conflict of purpose and orientation. As a businesslike service organization, the union requires efficient bureaucratic administration, very much like a bank or insurance company. The members of the union are essentially merely clients who are entitled to the best service for their money but who certainly should not presume to interfere in matters of administration, since such matters are properly the function of trained and experienced officials, specially selected for the purpose. But as a phase of the democratic self-liberation movement of modern times, the union is an idealistic, quasi-religious collectivity; it is a crusading reform movement of which the members, the masses, and their democratic self-expression are the very essence.[60]

We have noted already the tendency for power to concentrate at the top as unions grow. This is a natural evolutionary process which is only aggravated or hurried by the thirst for power of strong individuals. The rank and file lose touch as the union grows large, its functions and responsibilities multiply, and the art of collective bargaining becomes more technical and embraces a wider area.

"Power politics are not without importance in the gradual bureaucratization of an organization. An administration—even one composed of the most sincere and democratic minded citizens—must give some thought toward maintaining authority if its policies are to be carried out. The administration is confronted with what it regards as unfair and demagogic attacks on its policies made by persons who in the leaders' opinions at best want power merely for power's sake. In such situations union leadership is likely to resort to dubious devices and undemocratic acts in order to maintain its power. The practical results of patronage and the political machine replace the idealism of the 'pure democracy.' Beginning with the very best of intentions, desirous of power not for its own sake but in order to implement a constructive program, the idealist in office insensibly passes over to an increasingly exclusive absorption in power as such, explained away and justified by all sorts of rationalizations. This is the inescapable logic of power politics, but without power politics there is no administering or running a union."[61]

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[58] Lloyd G. Reynolds, *American Economic Review, Proceedings,* **36**:382 (1946).

[59] Lloyd G. Reynolds, *American Economic Review, Proceedings,* **36**:382 (1946).

[60] Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall 1943), p. 406.

As control is centralized at the top, more and more of the union's administration becomes bureaucratized. The union's affairs are administered by a select group, partly professional or quasi-professional employees, partly "the administration," elective officials who have been in office so long as to have practically nothing in common except their antecedence with the rank and file. The net effect is likely to be more efficient administration; the creation of a special privileged caste of administrators within the unions; "the limitation and virtual extinction of self-government; and the restriction of the civil rights of the members."[62]

It should be emphasized again that the strangulation of democracy by bureaucracy is an impersonal process. The root cause is the indifference of the rank and file. With the union efficiently run, the average worker has little to get him excited. Like the average citizen or the average stockholder, he is content to let the machine run things so long as conditions are good. "Why waste time going to meetings? We pay officials to run the union," sums up the attitude.

THE REMEDIES

What can be done to make unions more democratic? First of all, it is essential that free speech and the right to criticize be effectively safeguarded. The proposal of the American Civil Liberties Union that special tribunals be established so that all union discipline cases can be reviewed is one suggestion. Another Civil Liberties Union proposal calls for a bill of rights for union members clearly granting them the right of immediate appeal to the special tribunal without "exhausting their remedies" within the organization.

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[61] Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall 1943), p. 409.

[62] Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall 1943), p. 410.

These reforms have a twofold aim. They would first of all increase the worker's job security by granting relief against arbitrary expulsions from unions and hence, under union security provisions, from jobs also. And in the second place they would subject leaders of unions to more vigorous criticism. This would not only keep leaders on their toes, but would also have the tendency to develop the talents of the potential leader in the lower ranks who could speak up without fear of reprisal. The net effect would then be to lay the basis for the existence of more than one machine within an organization and, therefore, to provide the employees with a choice.[63]

Democracy has its cost, however. The more democratic an organization is, the more factional conflict there is likely to be within it. Such conflict has the advantage of keeping the leadership sensitive to membership opinion. It also has its disadvantages. For one thing, it facilitates infiltration into the union by Communists and other groups who are experienced factionalists, and who are interested in converting the union into an instrument of a political party. Factionalism also can weaken the union in its dealings with employers and can increase industrial strife, because of the fear of union leaders to strike a bargain that is subject to criticism by their rivals. These costs must be recognized and accepted if democracy is to exist.

Perhaps something else, however, besides institutional or legal changes is needed. Mr. Will Herberg, himself a labor union official, feels that without the creation of a "labor conscience" these institutional and legal reforms will not be very successful:

> Among the masses, a labor civic morality must come into being. Today there is virtually no such thing. Improper conduct, even corruption, meets with no special resentment or indignation in the labor movement; as long as the union leaders "deliver the goods" in terms of protection and service, wages and hours, anything goes. There is no labor public opinion on the alert to rebuke excesses and check abuses, as there is, for example, in some religious communities. There are no moral sanctions or restraints emanating from the masses of workers operative in the labor movement. This lack is but an aspect of labor's general social immaturity and absence of self-consciousness.
>
> As far as leaders are concerned, what is fundamentally needed is a powerful social idealism capable of mitigating, controlling, and transcending the crudities of personal ambition and power politics. Such a moral dynamic once existed to some degree in socialism, which was the conscience of the labor movement. Today, with the decline of the socialist faith, labor is left without a conscience, without a moral

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[63] Lloyd G. Reynolds, *American Economic Review, Proceedings*, **36**:382 (1946).

dynamic, and thus without protection against the impersonal mechanism of organization and the human lust for power.[64]

The Governments of the AFL and CIO

THE AFL

The government of the American Federation of Labor reflects the lack of power of the Federation. Within the AFL the international unions are autonomous. The AFL leaders have no authority to intervene in national union affairs. In a number of cases, to be sure, prominent AFL leaders have used their influence in behalf of some policy or some group within an affiliated union. Technically, however, the Federation is built on the autonomy of the international union.

> The government of the A.F. of L. is entirely in the hands of its annual conventions and of the Executive Council, consisting of the president, the thirteen vice-presidents, and the secretary-treasurer, which Council makes such decisions between conventions as exigencies require. Direct legislation finds no place in the government of the A.F. of L. Even the executive officers are selected in convention, from year to year. Each affiliated international and independent local is entitled to send delegates to the convention according to membership upon which per capita taxes have been paid—one for the first 4,000 members, two for the first 8,000, three for the first 16,000, and so on indefinitely. Federal labor unions, city centrals, state federations, and the departments are entitled to one delegate each.[65]

The federal labor unions referred to in the above paragraph are local unions affiliated directly to the AFL. They are organized by the Federation in industries in which no international union exists. City centrals and state federations are coördinating bodies which are chartered by the AFL in states and cities for the purpose of coördinating AFL policy and particularly for lobbying and other political activities in behalf of AFL unions.

With the exception of the Union Label Trades Department, which is a propaganda organization to promote the use of union-made goods, the departments of the AFL act as coördinating bodies for craft unions which operate in the same industry. Their independence and importance varies considerably. Thus the Railway Employees Department is composed of the seven unions which have organized the railway shop employees. It is the most independent of all the departments, having the full support of the railroad unions and acting as collective bargaining coördinator for dealings of shop employees with railroads.

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[64] Will Herberg, "Bureaucracy and Democracy in Labor Unions," *Antioch Review* (Fall 1943), pp. 416–417.

[65] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 306.

The Metal Trades Department and the Building Trades Department are less closely knit organizations. The former operates principally in AFL shipyards, the latter of course in the building trades. Both establish local councils but both have had difficulty over jurisdictional disputes. As a result the Building Trades Department in particular does not usually represent all building trades unions.

It is possible for one international union to be a member of all three AFL major departments. In fact the International Brotherhood of Electrical Workers does have such membership. Other unions are members of at least two.

The AFL has only two full-time elective personnel, president and secretary-treasurer. The Executive Council is composed of officials of AFL unions who serve the AFL without compensation from that body. The AFL president has little actual authority. A forceful personality like Samuel Gompers needed little statutory authority to give real leadership to the Federation. The same cannot be said for his successor.

At annual conventions most delegates are officials of the affiliated bodies. Rarely is the official position of the Executive Council challenged. The rank and file of labor are not heard at AFL conventions which, of course, does not mean that the official convention views are not those of the rank and file.

The AFL services its affiliates with a wide variety of functions. It attempts to decide disputes between them; it coördinates and supplements their organizing work; it supplies them with a series of news publications, maintains a legal department, and acts as official representative in political matters although it has been careful not to back a particular political party because of the differences of view among its members. In actual fact its political activities are largely concentrated in promoting pro-labor legislation in the states and in Congress and in opposing legislation considered generally detrimental to labor.

THE CIO

The government of the CIO is similar to that of the AFL. Its international unions are autonomous and it has established city and state industrial union councils which parallel the similar bodies of the AFL. The CIO directly organizes local unions in areas where no national union has jurisdiction. The CIO has, however, nothing analogous to the departments of the AFL.

The Executive Council of the CIO, unlike that of the AFL, is composed of a representative of each affiliated union. In addition, however, the CIO has established a sort of subcouncil composed of the President of the CIO, the Secretary-Treasurer and eight officials bearing titles of vice-president who are officials of affiliated unions.

As in the case of the AFL, the President of the CIO has no authority over affiliated organizations. In contrast to the present situation in the AFL, however, the CIO chief executive has always had considerable influence with affiliated unions. This has been true not only because of the personalities of John L. Lewis and Philip Murray, the two men who have served as CIO presidents, but also because both Lewis and Murray during their incumbencies were also president of powerful affiliated unions —Lewis of the United Mine Workers which has since dropped out of the CIO, and Murray of the United Steelworkers. In general the CIO performs the same functions as the AFL.

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Management of Industrial Relations

Successful business management requires as a cornerstone a sound and constructive labor relations policy formulated in the light of the nature of the industry and calculated to secure the harmonious coöperation of employer and employee in the everyday work relationship. Whatever the enterprise may be and whatever its size, to assume a workable and realistic attitude toward labor is an all-important function of top management. This statement applies alike to factories, railroads, merchants, billion-dollar corporations, and relatively small business enterprises.

Business managers who have ignored the importance of a realistic approach to labor relations have learned to their sorrow that ignorance may be very costly, while those who have been in the vanguard of the movement for such an approach have discovered that it pays for itself many times over. Management, to be effective, cannot afford to ignore or to overlook any phase of the business which, properly handled, can perform its work better or more economically. To stress sales and production policies, to emphasize finance management, and at the same time to neglect the possibilities inherent in a changed attitude toward the human side of production is lopsided and inefficient management.

It has been only in relatively recent years, however, and then only under the stress of new conditions, that even progressive executives have begun to realize the significance of human relations in industry and to devote attention to the subject. Thus, in 1926, an authoritative book stated:

> The industrial world is only a little beyond the threshold of a new evaluation of administrative ability in terms of effectiveness in directing people, and in terms of the application of scientific methods to using human energy. A new focus in administration is the human element. The new center of attention and solicitude is the individual person, the worker. This shift comes about fundamentally because the enlistment of human cooperation, of the interest and good will of the workers, has become crucial in the conduct of economic organizations.[1]

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[1] O. Tead and H. C. Metcalf, *Personnel Administration* (New York, McGraw-Hill Book Company, 1926), p. 1.

Personnel administration has become exceedingly complex in late years. It requires not only the ability to manage men and to get along with them as individuals but also, what is more difficult, skill in bargaining collectively with unions of employees. In short, personnel administration has become industrial relations. The right of employees to organize is established by law; whether they exercise that right is solely their concern. Any activity on the part of management aimed at denying the exercise of that right is not only illegal but also conducive to poor industrial relations. Likewise, attempts of unions to usurp bona fide managerial functions are usually preludes to industrial strife.

The growth of trade unions has thus made sound industrial relations a prime requisite of sound industrial management. The failure of business enterprise to make necessary alterations in policy to conform with changing times has, on numerous occasions, prompted workers to secure the required adjustments through collective bargaining or through legislation.[2] In the latter case, the management is regarded by its employees as acting only under compulsion. It does not gain employee good will, promote a coöperative relationship, or increase the employees' sense of identification with the enterprise.

The primary obligations of management to its employees, as now generally recognized, are (1) to maintain wage rates and conditions of employment at least equal to those prevailing in the community for work of the same kind, (2) to afford as high a degree of regular employment as possible, and (3) to provide a reasonable measure of social security beyond legal requirements. In brief, an employee's major concern is the basic annual income from his job and the maintenance of that income if, for reasons beyond his control, he should be unable to work. Extra work with salary compensation in the form of incentive pay, year-end bonuses, or profit sharing is necessarily uncertain and fluctuating in amount and at best provides only a small percentage supplement to the employee's base pay.[3]

Background of Industrial Relations

From a historical standpoint, industrial relations owes its origin to several factors, some of which operated over long periods of time while others provided the immediate stimulus. Of the long-run factors, the following were the most important: (1) the rise of big business in the

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[2] Few employers today will dispute the statement that they could have avoided such legislation as the National Labor Relations (Wagner) Act of 1935 if, prior to that date, they had been willing to bargain collectively with unions freely chosen by their employees.

[3] Throughout this section, the writers have been materially aided through the use of unpublished manuscripts by Dr. Bryce M. Stewart, Director of Research, Industrial Relations Counselors, Inc.

United States, (2) the increasing difficulty of handling labor relations along the older lines of approach, (3) the development of scientific and engineering research, and (4) the rise of trade unions, aided recently by legislation.

LABOR RELATIONS IN THE PERIOD OF SMALL BUSINESS

Prior to the development of the large corporate enterprise, it was scarcely necessary to adopt any policy for dealing with labor other than that of the age-old individual employer-employee relationship. The business unit was small and the capital investment was inconsiderable; hence there were seldom more than a few workers in any one establishment. Typically, too, the employer worked side by side with his men, his work often being indistinguishable from theirs. Even at the present time, of course, numerous survivals of this era are to be seen, especially in small retail establishments.

As long as the business remained small, the employer was both owner and manager. He did all the hiring and firing, fixed wages, hours, and conditions of employment, and supervised the conduct of his employees at work. He was thus in an excellent position to reward employees for good work and to penalize them for poor work; he was able to supply incentives as well as to adjust grievances when and as they arose. His relationship to his employees was largely a personal matter. In fact, employer and employees were often members of the same family or of related families; they lived in the same neighborhood and moved in the same social and cultural circles. Tied as they were by bonds of family and other interests, there was relatively little smoldering discontent on the part of the workers, for they were able to tell when business was good or bad, when the employer was making or losing money, and were consequently restrained from presenting demands which could not be met.

From this recital of conditions it should not be implied that the days of the small enterprise were the good old days, for certainly neither the wages and hours nor the working conditions were what would now be regarded as desirable. Indeed, one is often led to believe that the worker was relatively worse off in the small establishment than in the large one. Nevertheless, because of the smallness of the enterprise, labor problems did not come to the fore. Moreover, the multiplicity of small business concerns made it not too difficult for the worker to move from one job to another whenever he became seriously discontented with the conditions of his employment and saw an opportunity to better himself elsewhere.

RISE OF BIG BUSINESS

When concentration of industry and larger business units became the rule, conditions were radically changed. The owner and the operating head of the business were no longer one and the same person. The number of men in a single establishment mounted into the hundreds and then into the thousands. Individual contacts with the employer were no longer possible. Hiring and firing and the determination of working conditions were left to foremen or bosses, who took their orders from plant superintendents or managers. Although the managers usually worked for the best interests of the business, often they were arbitrary in their interpretation of orders and unnecessarily harsh in their attitude toward the men. It was not by any means an uncommon occurrence for foremen to conspire with employment agencies to the detriment of company and worker alike. The foreman would hire the men sent by the employment agency, with which he would split the fee; shortly afterward he would find some pretext for discharge and would repeat the process with other victims. The foreman, moreover, was likely to discriminate among the men in his charge, favoring some of the workers to the detriment of others.

One of the consequences of the increased size of the business unit was the development of an atmosphere of impersonality, which made the individual worker feel like a mere cog in a gigantic machine and tended to rob him of any interest he might otherwise have had in the welfare of his employer. As far as the employer was concerned, the worker was a rather vague being whose existence was necessary to the welfare of the enterprise but in whom no personal interest was taken. To the worker, the employer appeared to be someone very remote from his everyday life, a natural enemy whose interests were diametrically opposed to his own. He tended to judge the company's attitude by the attitude of his immediate superior—the foreman. Plant managers, superintendents, and executive vice-presidents existed for him only on the periphery of consciousness. If the foreman was "decent," the company was good; if the foreman was unpleasant, the company was no good.

Scientific Management

Under the impetus of rising production costs and labor unrest, a group of engineers led by Frederick W. Taylor developed the scientific management movement. They attempted to carry over to labor management the orderly procedure of science, by insisting on four basic principles of management: (1) replacement of rule-of-thumb methods with true science; (2) scientific selection of the worker; (3) his scientific education and development; and (4) close and friendly coöperation between management and men.[4] Taylor was certain that the adoption of these basic principles would lessen industrial discord, would enormously increase production, and would operate to the benefit of men as well as management.

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[4] See Frederick Winslow Taylor, *The Principles of Scientific Management* (New York, Harper and Brothers, 1911), p. 130.

According to his program, each job was to be carefully analyzed, all unnecessary movements eliminated, and the most efficient method of performing it determined by motion study. The amount of time necessary to complete a given task was to be ascertained by time study. Through time and motion study, therefore, it would be possible to increase efficiency greatly. Scientific managers emphasized the importance of careful planning, wise selection of tools and equipment, functional foremanship, a modern cost system, a routing system, and an incentive wage.[5] Taylor and his associates viewed the movement as permitting the maximizing of prosperity to employer and employee.

From its very inception, however, the movement met with determined opposition from organized labor and from many employers. It was criticized for being autocratic, for introducing excessive speed-up in production, for tending to reduce the worker to a mere automaton deprived of responsibility for thinking, for minimizing the skill of the worker, for increasing industrial unrest, and so on. More impartial observers criticized the movement for being basically unsound. One writer said:

> The fundamental fallacy behind the engineer's reasoning is the confusion of output with profits. Output is technological; profits are the result of economic interrelationships of a very complex nature, over which even powerful business combinations may not have absolute control. Large output may possibly mean small profits or no profits at all. Now wages are a derivative not of output but of profits. Efficiency as a factor in wages may therefore serve to differentiate a group of men working at the same task, but it cannot determine basic wages. The assumption that unity of interest between worker and employer can be attained by a sliding scale of wages depending upon the efficiency of the worker and of the industry is founded upon a total misconception of the basis of our social adjustments.[6]

Criticism of and opposition to scientific management, coupled with the outbreak of World War I and its enormously heightened demand for labor, brought to an end the early phase of the movement. It became fairly certain that scientific management, in and of itself, could not cure industrial unrest. Thus, it may be said that scientific management fell far short of its goal. Nevertheless, it left a heritage of great significance. It recognized the role of the worker in production; it emphasized the importance of proper selection, instruction, and placement of workers; it pointed to the desirability of incentive wages as a means of securing greater effort from the workers; it insisted on the responsibility of management; and it stressed the need for continuous research. Its utter failure to recognize human values presented an opportunity which personnel administration was quick to seize.

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[5] Incentive wages are discussed more fully in Chapter 7.

[6] S. Blum, *Labor Economics* (New York, Henry Holt and Company, 1925), pp. 420–421.

Following World War I a new interest in scientific management developed. The labor shortage during the war had demonstrated the high cost of hit-or-miss policies. Moreover, management hoped to substitute scientific management and enlightened personnel administration for unions. These policies continued until the depression of 1929 forced many companies to retrench and discontinue what they considered unnecessary services for their employees.

The rise of a strong labor movement in the thirties was followed by four years of compulsory arbitration under a National War Labor Board. During World War II there again developed increased interest in the improved management of labor relations. Most industrial relations experts agree that the prime responsibility for the development and maintenance of sound, responsible industrial relations rests upon industrial relations managers. "Never before have the men at the helm of industry needed for labor relations so steady a hand or so imperturbable a temper as now. Never before, to put it in a phrase, have industrial leaders been in such need of emotional maturity."[7]

The policies which determine the success or the failure of industrial relations for the individual plant or company may vary considerably according to the attendant circumstances and the local problems. There are, however, fundamental principles and policies that generally are conducive to good employee-employer relations. It is with these and with the organization of company structure to formulate them that the remainder of this chapter is concerned.

Industrial Relations Department

The organization of an industrial relations department is largely the function of the director of industrial relations. "Any enumeration of the characteristics which the ideal personnel manager should possess would encompass all the virtues and none of the failures of human beings."[8] Certainly among the characteristics that cannot be lacking are a lively intelligence with emphasis on resourcefulness and analytical ability, a high degree of freedom from bias, and an emotional maturity which is that faculty for accepting "unpleasant facts, whatever their genesis, as concrete situations to be handled rather than hated."[9] In addition, a competent personnel relations director should possess a compelling manner, a

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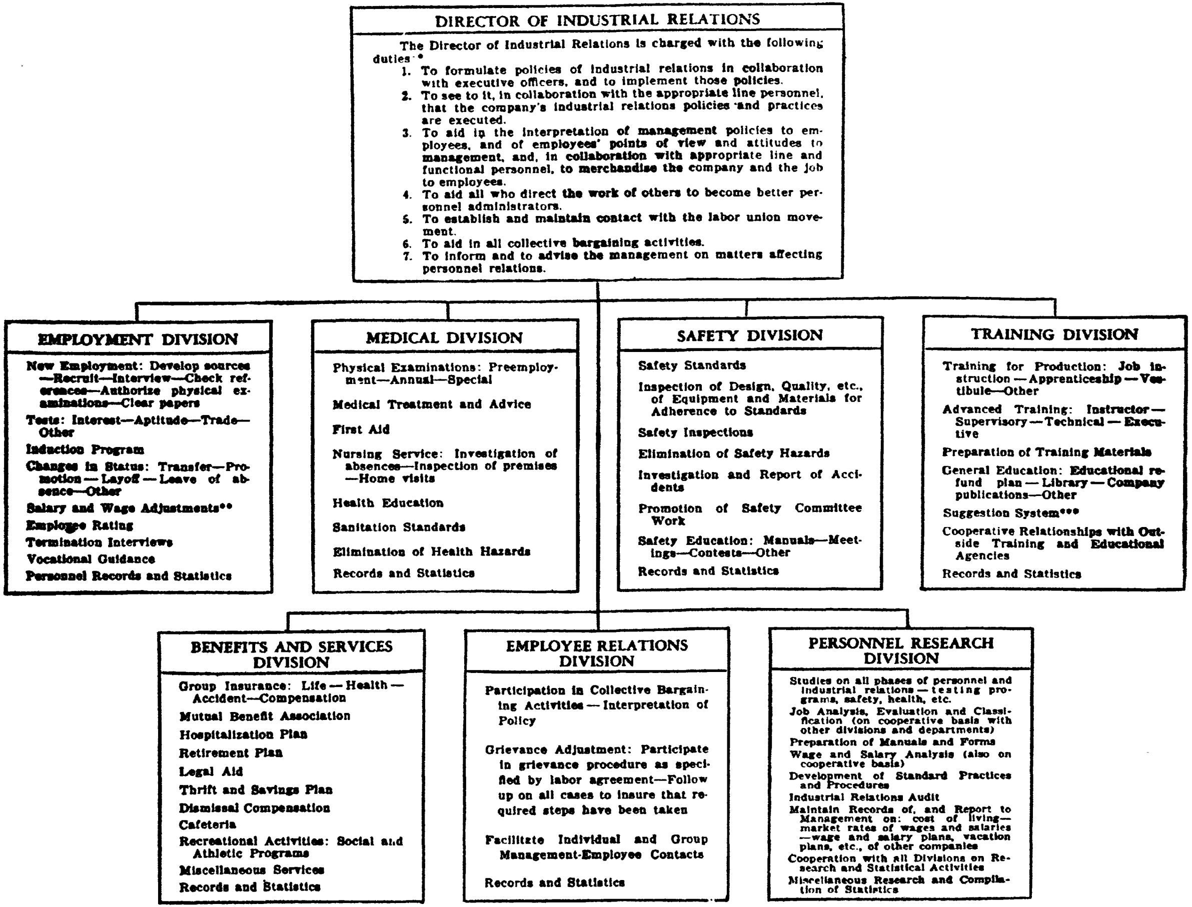
[7] Benjamin M. Selekman, "Wanted: Mature Managers," *Harvard Business Review*, **24**:228 (1946).

[8] American Management Association, *How to Establish and Maintain a Personnel Department*, Research Report No. 4 (New York, American Management Association, 1944), p. 13.

[9] Benjamin M. Selekman, "Wanted: Mature Managers," *Harvard Business Review*, **24**:228 (1946).



DIRECTOR OF INDUSTRIAL RELATIONS

The Director of Industrial Relations is charged with the following duties:*

1. To formulate policies of industrial relations in collaboration with executive officers, and to implement those policies.
2. To see to it, in collaboration with the appropriate line personnel, that the company's industrial relations policies and practices are executed.
3. To aid in the interpretation of management policies to employees, and of employees' points of view and attitudes to management, and, in collaboration with appropriate line and functional personnel, to merchandise the company and the job to employees.
4. To aid all who direct the work of others to become better personnel administrators.
5. To establish and maintain contact with the labor union movement.
6. To aid in all collective bargaining activities.
7. To inform and to advise the management on matters affecting personnel relations.

EMPLOYMENT DIVISION

New Employment: Develop sources—Recruit—Interview—Check references—Authorize physical examinations—Clear papers
Tests: Interest—Aptitude—Trade—Other
Induction Program
Changes in Status: Transfer—Promotion—Layoff—Leave of absence—Other
Salary and Wage Adjustments**
Employee Rating
Termination Interviews
Vocational Guidance
Personnel Records and Statistics

MEDICAL DIVISION

Physical Examinations: Preemployment—Annual—Special
Medical Treatment and Advice
First Aid
Nursing Service: Investigation of absences—Inspection of premises—Home visits
Health Education
Sanitation Standards
Elimination of Health Hazards
Records and Statistics

SAFETY DIVISION

Safety Standards
Inspection of Design, Quality, etc., of Equipment and Materials for Adherence to Standards
Safety Inspections
Elimination of Safety Hazards
Investigation and Report of Accidents
Promotion of Safety Committee Work
Safety Education: Manuals—Meetings—Contests—Other
Records and Statistics

TRAINING DIVISION

Training for Production: Job instruction—Apprenticeship—Vestibule—Other
Advanced Training: Instructor—Supervisory—Technical—Executive
Preparation of Training Materials
General Education: Educational refund plan—Library—Company publications—Other
Suggestion System***
Cooperative Relationships with Outside Training and Educational Agencies
Records and Statistics

BENEFITS AND SERVICES DIVISION

Group Insurance: Life—Health—Accident—Compensation
Mutual Benefit Association
Hospitalization Plan
Retirement Plan
Legal Aid
Thrift and Savings Plan
Dismissal Compensation
Cafeteria
Recreational Activities: Social and Athletic Programs
Miscellaneous Services
Records and Statistics

EMPLOYEE RELATIONS DIVISION

Participation in Collective Bargaining Activities—Interpretation of Policy
Grievance Adjustment: Participate in grievance procedure as specified by labor agreement—Follow up on all cases to insure that required steps have been taken
Facilitate Individual and Group Management-Employee Contacts
Records and Statistics

PERSONNEL RESEARCH DIVISION

Studies on all phases of personnel and industrial relations—testing programs, safety, health, etc.
Job Analysis, Evaluation and Classification (on cooperative basis with other divisions and departments)
Preparation of Manuals and Forms
Wage and Salary Analysis (also on cooperative basis)
Development of Standard Practices and Procedures
Industrial Relations Audit
Maintain Records of, and Report to Management on: cost of living—market rates of wages and salaries—wage and salary plans, vacation plans, etc., of other companies
Cooperation with all Divisions on Research and Statistical Activities
Miscellaneous Research and Compilation of Statistics

FIG. 1. (Composite) Functional organization of industrial relations. Reproduced by permission of the publisher from *How to Establish and Maintain a Personnel Department*, Research Report No. 4 (New York, American Management Association, 1944), p. 13.

* As presented on the organization chart of a large corporation.

** At present there is a discernible trend in the direction of centering wage administration in a separate division of the personnel department, or assigning the function on a full-time basis to a designated member of the personnel staff.

*** There is considerable variation between companies with respect to the division which is assigned responsibility for the *Suggestion System.* To a lesser degree, this also appears to be true of the *Library* and the *Company Publications.*

capacity for understanding people and their problems. He should be thoroughly trained in his position both by education and by experience; he should be familiar with the standard literature and current books and periodicals in his field; he should participate actively in management societies and should maintain an open, constructive attitude toward new developments, new ideas, and new experiments. Finally, he should recognize that industrial relations, "while it involves service of a high order, has no room for the sentimentalism and the expansive paternalism of the now outmoded welfare point of view. Idealism has its place to be sure, but it must be balanced by the dictates of common sense."[10]

It is of prime importance that the industrial relations director be given a title and an office which will place him in a position of equality with the heads of the production, sales, purchases, and other departments. Thus, if there is a vice-president in charge of sales and another in charge of production, there should be a vice-president in charge of industrial relations. Only under such circumstances will the industrial relations director possess the necessary prestige to insure that industrial relations problems will be considered by other department heads before making final decisions. Moreover, the prestige inherent in the industrial relations position must be strengthened so that employee representatives and union officials will realize that final authority in these matters is vested in the industrial relations director. Union officials do not like to deal with those who lack authority to make decisions. Within the realm of the broad policy established by top management, concerning which the industrial relations director should be consulted, full power to settle problems covering a wide latitude should be vested in the director.

The structure of the industrial relations department naturally will vary according to the size of the company, its problems, and a variety of other factors. The American Management Association, on the basis of intensive research, has developed a functional organization chart of an industrial relations department. This chart is shown in Fig. 1. The organizational set-up here illustrated would not necessarily be found in any one company; it presents, rather, a composite all-inclusive picture for a large concern.

THE SELECTION OF WORKERS

Until recently, the selection of workers was largely the function of foremen and straw bosses. As a result, top management had no assurance that any effort was made to fit man and job together. Often workers were hired whose sole qualification lay in their relationship to the foreman.

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[10] American Management Association, *How to Establish and Maintain a Personnel Department*, Research Report No. 4 (New York, American Management Association, 1944), pp. 13–14.

Perhaps a "men wanted" sign might be posted at the gate; and when applicants presented themselves, a foreman would give them a casual glance, ask some perfunctory questions, and then hire or reject them. Employment agencies were frequently utilized. When an agency was notified that jobs were available, it sent any applicants whose names were on file. The agency was interested in earning its fee, the men wanted jobs, and little was done to find out in advance whether the men suited the jobs or the jobs, the men. Not infrequently, some departments were hiring while others were firing, and no attempt was made to transfer men from the latter to the former.

During the 1920's the high cost of such policies was demonstrated and a tendency toward centralized hiring developed. The growth of unions in the following decade made centralized hiring essential, for once hired, a worker could no longer be dismissed easily. Today, where management controls hiring, good industrial relations requires centralized channeling of applicants but leaves the final choice to the prospective employee's immediate superior. In other instances unions have assumed control of hiring, as will be developed in the following chapter.

Job Analysis and Job Specification

The first step in proper selection procedure is to ascertain, as accurately as possible, not only the number of workers required but also the different types of skills and experience that will be needed. It is absurd to hire just workers, even if the job is unskilled, since the most elementary performance requires certain physical and mental abilities. One would not engage a pianist to dig ditches or a ditch digger to make actuarial computations.

How is the employment department to learn what workers are needed? A general idea of requirements may be obtained from the production budget for the forthcoming period. If the budget indicates an increased production volume, it is likely that more men will be needed, and the employment department can begin to make preparations accordingly. But much more detailed information must usually be developed by means of job analysis and job specification.

Job analysis may be defined as "a scientific study and a statement of all the facts about a job which reveal its content and the modifying factors which surround it."[11] Job analysis involves a breakdown of the job into its components, so that the physical and mental duties, the requirements for the job, the wages, hours, and working conditions, the nature of the work, the possible lines of promotion, and so on, may be clearly stated.

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[11] O. Tead and H. C. Metcalf, *Personnel Administration* (New York, McGraw-Hill Book Company, 1926), p. 250.

The information necessary for the job analysis is best obtained by a committee consisting of the industrial relations director or his top assistant as chairman, a member of the employee interviewing staff, foremen, superintendents, and employees (the latter chosen by their fellow workers directly or through their union), with a technical job analysis man as secretary. Such a committee includes those who know the job as well as those who have to use the analysis.

If the job analysis is to be successful (and it will not be successful without employee coöperation), employees must be assured in advance that no rates which are out of line in the upward direction will be cut.[12] However, rates found to be too low should be raised without delay in order to forestall potential grievances and to improve employee morale. Finally, the job analysis of each occupation must be reviewed at regular intervals or whenever job content materially changes, in order that the employment interviewers may be kept currently informed.

After the analysis has been completed, it is best to prepare a job specification. Ideally, the specification embodies two parts: a job description and a man or prospective employee description. "On the job side the items frequently cover identity of the job (name, department, section, title of immediate supervisor); duties and responsibilities involved; working conditions (regular hours, overtime, surroundings, hazards); wages and bonuses; lines of promotion; and other such facts as required. On the man side, they include education; experience; training; special skills and abilities; and desirable physical, mental and personality characteristics."[13]

Supplied with the job analysis and the job specification, the employment interviewers are able to make a far more intelligent selection than they could without those aids. Moreover, job analysis is essential for policies besides hiring. It makes possible a workable, scientific job classification and thus prevents the rise of grievances based on intraplant wage inequalities; it makes possible the discovery of conditions injurious to health and safety; and it is helpful in improving methods of production, in measuring production, and in training workers.

Sources of Applicants

Prospective employees may be secured from several sources. Use may be made of the United States Employment Service or of licensed, reputable private employment agencies; some unions supply applicants; prospective employees may be recommended by company personnel; contacts with high schools or technical schools may be established; and applicants may come unsolicited. No matter whence they come or who they are, applicants should receive courteous treatment if only to aid in cementing community good will.

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[12] Such rates are brought in line by two procedures: (1) transfer of employees to jobs commensurate in skill with their wages and (2) hiring new employees at the correct job rate.

[13] American Management Association, *Manual of Employment Interviewing*, Research Report No. 9 (New York, American Management Association, 1946), p. 57.

Interviewers and Interviews

Interviewers must be selected and trained with great care. They must be capable of putting applicants at ease and of evaluating them without prejudice or bias. Persons who insist that all red-haired applicants are bright or that certain races or creeds are unintelligent have no place on interviewing staffs. It may be noted here that eight states already have enacted laws prohibiting discrimination in employment because of race, color, creed, or national origin. Unless industry gives minority groups a fair share of employment, similar legislation will be enacted in other states, and thus managerial prerogatives will be reduced further.

The person conducting an interview should follow a few simple rules. The interview should be conducted in pleasant surroundings under conditions of privacy; appointments should be scheduled and ample time should be set aside for them; questions should be well phrased, but embarrassment should be avoided; and the interview should be concluded on as pleasant a note as possible.[14]

In most cases a medical examination is desirable, if only to avoid the spread of contagious diseases or the employment of physical misfits. Testing aids are utilized by many concerns, especially for the more responsible positions; but for most jobs, they are of limited value.

If the applicant passes the interview successfully, he should be taken to the foreman or supervisor under whom he will work. The latter should be permitted the final word. He must get along with those whom he supervises; hence he should have the final word in their selection. Unreasonableness or prejudice should not, of course, be permitted in foremen. Those exhibiting such characteristics are obviously in need of a grounding in fundamentals. In fact, this training should be given to all foremen as a matter of routine before they are assigned supervisory work.

Applicants should be hired for a trial period of 30 to 90 days, during which they may be discharged without cause. Most unions agree to this principle, since they do not like having misfits and malcontents in their ranks any more than management does.

TRAINING PROGRAMS

Most companies that have tried training programs have found them a sound investment. Good employee morale is immeasurably furthered by the learning of new skills and by promotion from within the ranks. The nature of the training to be offered will depend upon the needs. Shop training for less skilled operators is quite common. Several industries that usually require considerable skill have adopted the practice of subjecting beginners to a period of apprenticeship under the joint control of management and labor organizations. The apprenticeship is gradually introduced in all phases of the work, proceeding from the simplest to the most difficult. Apprenticeship in the shop is sometimes combined with a course of formal instruction in school.

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[14] This discussion is based on American Management Association, *Manual of Employment Interviewing*, Research Report No. 9 (New York, American Management Association, 1946), p. 57.

An arrangement that combines training in school with training in the shop is being favored by employers and unions to an increasing extent. Practical knowledge combined with theoretical analyses and laboratory demonstrations has proved to be especially successful for occupations requiring a high degree of skill. The school may be conducted by the company itself in its own shops and with its own instructors, or it may be run in conjunction with some outside educational agency. There are a number of schools today that specialize in particular fields of study. One of the best known schools of this type is the Central High School of Needle Trades in New York City, which operates with the coöperation of the city, the industry, and the garment workers' unions.

No type of training is more important than that for foremen. Today, the foreman is a leader of men. He administers labor relations policy at the shop level, and he can make or break it. Foremen must be taught how to handle men, how to deal with and settle grievances, and how to establish workable relationships with union representatives. These responsibilities are even more important than the foreman's traditional task of keeping machines running and getting out the work. A wise manager consults his foremen before he inaugurates policies affecting their work. After all, no one knows a plant's problems as do those who live with those problems.

Foreman training should include class discussions held during off-hours, for which foremen should be paid. New collective agreements must be explained, and suggestions for new agreements should be obtained from the foremen. Methods of grievance adjustment are of prime importance in the curriculum. Some companies, in coöperation with unions, have established joint classes for foremen and union stewards or committeemen; the agreement is explained, and the union men and the foremen get to know and to respect each other. This is a means of building sound, harmonious industrial relations.

PROMOTION AND LAYOFFS

Promotion from within the ranks not only complements a training program, but is also the keystone of good employee morale and industrial relations. It has another very practical aspect. Companies that have promotion from within as a policy and have given due regard to length of service in promotions are not likely to be saddled with a rigid promotion seniority clause in their collective agreements under which virtually no factor but length of service can be considered in making promotions. Such clauses arise out of experience. A fair promotion policy obviates their need.

Layoffs because of slack work are generally made pursuant to collective agreements, and are discussed in detail in the following chapter.

Discipline and Grievance Machinery

However sound the industrial relations in a plant may be, occasions for discipline will arise. Proper discharge procedures, together with a cooperative spirit fostered by management, can keep such unpleasantness to a minimum. Shop rules should be clear, precise, and few in number. Grievances should be adjusted as quickly as possible and, except in cases of over-all company policy, as near to the source as possible. It is not enough merely to prove that the employee who felt himself aggrieved is in the wrong. Grievances are often prompted by fear, by personal maladjustments or difficulties, and by a host of matters totally unrelated to the issues under discussion.[15] A good industrial relations department, spearheaded by well-trained foremen, gets to the source of grievances before they can cause trouble.

The form of the grievance machinery may vary considerably according to the wishes of those concerned. However, collective agreements generally provide that grievances may be taken by the employee, often with the aid of the union comitteeman or steward, to the foreman. If it is not settled here, the grievance must be put in writing by both the employee and the foreman, to avoid future misunderstanding. An appeal may then be taken to the shop superintendent and the chief union steward, and if they cannot settle the grievance, it goes to the industrial relations director and the top union official attached to the plant or area. If, as sometimes happens, the parties still fail to agree, contracts usually provide for final settlement by an impartial arbitrator selected by the parties or, at their request, either by a government agency or by the non-profit, impartial American Arbitration Association. Collective agreements usually bind labor and management in advance to acceptance of the arbitrator's decision.

Modern grievance machinery is, of course, more complicated and time-consuming than the old method of arbitrary discipline. But in terms of a satisfied labor force and employee morale, which affect production and profits, there is no substitute for smoothly working grievance machinery that settles cases promptly and thoroughly.

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[15] See B. M. Selekman, "Handling Shop Grievances," *Harvard Business Review*, **23**:469–483 (1945).

EMPLOYER-SPONSORED BONUS AND WELFARE PLANS

Bonuses and Profit Sharing

The use of cash bonuses and profit sharing (including employee stock ownership) has frequently been advocated to allay unrest, to build employee morale, and to aid in other problems. They have rarely been successful because they ignore the difficulties which they would arrest. Handouts in the form of cash bonuses at the discretion of management are regarded by employees as so much gravy. They are much more concerned with the roast. There is no substantial evidence that bonuses provide any more incentive to better performance than would a lottery ticket. Usually they are soon spent and forgotten and little or no permanent benefit accrues to industrial relations.

Profit sharing, which is the payment of bonuses related to profits and their distribution to employees, usually in relation to their individual earnings, has a history of about 150 years. Some plans provide that the employees' share of profits shall be used for social security purposes, such as retirement, and this procedure has proved more satisfactory than cash distributions. However, profit sharing is too uncertain to permit its use as the sole means of financing employee security. Moreover, with higher taxes, broadening governmental provision for social security, union pressure advancing wage rates and overtime pay, more paid vacation and public holidays, and shorter work weeks in the years ahead, management might better concentrate on more substantive aspects of industrial relations.

The experience with profit sharing may be summarized as follows:[16]

1. Profit sharing has been tried by a very small proportion of employers.

2. The principal declared objectives have been (a) to provide an incentive for increased production, (b) to promote employee security, (c) to advance the social status of employees, and (d) to improve employer-employee relations.

3. Perhaps at least 60 per cent of the plans for wage earners and between one-third and one-half of all plans established in the United States have been discontinued.

4. The rate of establishment of plans, their rate of mortality, and the distribution to employees under such plans rise and fall with prosperity and depression.

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[16] Based on B. M. Stewart and W. J. Couper, *Profit Sharing and Stock Ownership for Wage Earners and Executives*, Industrial Relations Monograph No. 10 (New York, Industrial Relations Counselors, 1945).

5. Arbitrary cash bonus plans have declined in favor, and over the years plans that establish trust funds and provide for determination of the amount of profits to be shared and its allocation to employees by fixed formulas have gained in number.

6. Profit sharing through distribution of company stock has been adopted in only a minority of the plans. Because of employee dissatisfaction and management embarrassment in times of rapid decline in the stock market, this procedure, especially as regards wage earners, is now regarded with less favor, and is only being utilized by a few concerns which have a long record of high earnings and stable stock prices.

7. The preponderance of evidence is that profit sharing has made no substantial contribution to the improvement of employer-employee relations.

8. Employee security by way of pensions or otherwise is more in favor with governments and unions than profit sharing. Throughout its history, a considerable body of opinion has held that profits distributed to employees should be used largely if not solely for purposes of employee security.

9. The first and also one of the latest American studies of profit sharing for wage earners conclude that companies should make certain that their wage rates and employment conditions are on parity with those for similar employment in the community, establish good employee relations, and develop well-rounded personnel programs before establishing profit-sharing plans.

10. The experience suggests that only a minority of companies can afford profit sharing and that even in such companies it should only be established to crown a good personnel program.

11. Profit-sharing cash bonus plans for executives avoid some of these difficulties, but considerable payments of bonuses in good years will invite stockholder and public criticism disproportionate to the net increase in the individual executive's compensation after payment of income tax.

Company Housing and Stores

If companies operate in isolated localities where housing, stores, and community services are not available on an ordinary commercial basis or through a governmental agency, it is the generally accepted practice for the managements to assume responsibility for providing certain of these services. Seemingly, situations of this kind are becoming less and less common, as remote areas are opened up through the increasing use of the automobile, improvements of roads and transport service, and growth of public utilities. Many employers today desire to dispense with supplying perquisites because their employees had come to take them for granted, and because the costs of operating them have risen so high. Some also feel that apparently employees would prefer to have the equivalent money in their pockets to spend as they choose in lieu of provision of perquisites by the company. Others believe that the development in employees of a sense of responsibility through encouraging them to manage their own finances, and, especially, to buy their own homes, makes them better citizens and consequently better workers. And finally, the rise of unions with demands for participation in the management of perquisites, or union interest in establishing rival services have encouraged the elimination of perquisites in most instances.[17]

Pension Plans

Managerial interest in pension plans dates, to a large extent, from World War I when they were adopted in many cases as a means to curb labor turnover and allay unrest. Many pension plans suffered severe curtailment during the depression of the thirties but the sounder ones survived and today as a result of tax benefits and the wartime stabilization program, the interest in them is higher than ever before.[18]

Pension plans promote stability in so far as they provide the employee with growing security as he nears the retirement age. They should be based on a sound actuarial study clearly within the company's ability to provide and should be planned with a view to supplementing an expanding and increasingly expensive Federal social security program. Authorities now agree that not too much should be expected from pension plans and not too much should be promised. Nothing is more detrimental to employees' morale than to be promised a pension which must later be reduced in amount because of the unexpected high cost to the employer. It is far better to develop a modest program which is within the company's ability to meet in time of crisis than to attempt the financially impossible.

In the post-World War II years, inflation seriously impaired most pension plans since they were based on prewar price levels and living standards. As a result, most companies having well-developed plans found it necessary to supplement them so that pensioners could meet the high living costs.

The problem of pensions also attracted considerable union interest in the post-World War II period, partially because of older workers' concern over the possibilities of retirement on a pension which was unsuited to existing price levels. This union interest took the form, not only of incorporating pensions into union-management welfare plans, as described in

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[17] See *Business Week* (October 16, 1948), pp. 46–52.

[18] See Murray W. Latimer, *Industrial Pension Systems in the United States and Canada*, 2 vol. (New York, Industrial Relations Counselors, 1933); M. W. Latimer and Karl Tufel, *Trends in Industrial Pensions*, Industrial Relations Monograph No. 5 (New York, Industrial Relations Counselors, 1940); and Meyer M. Goldstein, *Overhauling Pension and Profit-Sharing Plans*, Financial Management Series No. 83 (New York, American Management Association, 1946).

Chapter 9; but also of demanding a voice in any changes made in plans initiated by companies prior to collective bargaining. The National Labor Relations Board backed union demands that pensions were within the scope of collective bargaining. The effect is likely to be less management interest in private retirement schemes for fear that union pressure will make pensions too costly an item. This fear may well be warranted in view of the increasing rise in the average age of the labor force, which is attributable to the declining rate of population increase; and in view also of the rising age of plant workers resulting from the increasing application of the seniority principle in layoffs and promotions.[19] By making more employees eligible for pensions, both these factors would increase pension costs even without increasing individual pension payments.

Employer Sickness and Benefit Plans

Employers in the United States have frequently initiated benefit plans of various types, which are either paid for entirely by employers, or partially by the employer and partially by employees. These benefits are distinguishable from those covered by union-management welfare plans, which are described in Chapter 9, in that they are employer sponsored and do not come within the scope of collective bargaining. Moreover if employee contributions are made, inclusion within these plans is often voluntary for the individual worker. They can, of course, be converted into union-management welfare plans if unions are successful in demanding joint union-management control of benefits which have been initiated by management.

Considerable variation exists among employer benefit plans. Group life insurance is commonly included, as are burial benefits. Very often companies adopt Blue Cross hospitalization or medical programs sponsored by insurance companies. Surgical care and accidental death or dismemberment benefits are likewise fairly common.[20]

A few companies have adopted more complete programs which include staff physicians and nurses, special provisions such as a reserved floor in local hospitals, or even a private hospital for employees. These plans are, however, the exception.

If a comprehensive federal health insurance program is adopted, many of these programs may be modified or discontinued. A few, however, will probably be retained since they provide facilities considerably in excess of what a federal program may be expected to make available.

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[19] The seniority principle is discussed in Chapter 6.

[20] Many of these facts are taken from unpublished memorandums of Industrial Relations Counselors, Inc. For a study of benefit plans in a particular industry, see Joseph Zisman, *Fifty Employee Benefit Plans in the Basic Steel Industry* (Washington, Federal Security Agency, 1947).

Annual Wages and Work Guarantees

Guaranteed annual wage programs have stimulated considerable interest in recent years. Obviously, any program which guarantees a minimum annual wage removes considerable strain from industrial relations, in which the fear of the future is often the most troubling factor. Unfortunately, it is not easy to guarantee an annual income to employees in most industries, at least at present. The companies that have had the most success with guaranteed annual wage programs are those in the consumer goods industries where unit or tonnage demand is easily predictable and does not fluctuate to any considerable degree. Procter and Gamble, Inc., a soap manufacturer whose plan has become well known, falls in this category.

In such an industry as iron and steel, which does not sell any of its products directly to consumers and the demand for whose production is tremendously affected by cyclical changes, a guaranteed annual wage program involves what, at present, appear to be insuperable difficulties. In the future, however, stimulated by increasing union demands for more security, even industries like iron and steel may find the means to achieve greater long-range stability of employment.

Moreover if one firm stabilizes its employment, it may have the result of upsetting the stability of the employment in firms which buy the product:

> Until recently, offers for house radios were concentrated in the autumn, which caused highly irregular employment in the industry. With the adaptation of the radio to the automobile, employment in the industry became more regular because orders for automobile radios were concentrated in the first few months of the year. Recently, however, the automobile industry has been trying with some success to spread its own employment more evenly over the year. Already radio manufacturers are realizing that with more stable production of cars, a new factor of instability obstructs their own attempts to stabilize.[21]

Another factor which must be considered is that the net effect of guaranteeing employment and income to one group will not only have the effect of making that group economically more secure, but will also probably result in less security to those not included within the scope of guarantees. Firms stabilizing employment in order to guarantee income will reduce labor turnover and thus reduce job vacancies. Moreover if labor cost becomes a fixed cost, as it must under an annual wage program, stabilization is likely to take place at a lower employment level than would otherwise exist.[22]

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[21] New York Commissioner of Labor, Economic Brief for Respondents; Factual Background of Article 18, Labor Law, Chap. 468, Laws of 1935 Court of Appeals, New York, argued March 19, 1936, p. 44.

All this does not mean that it is not sound personnel policy for a concern to regularize employment in so far as it can do so without impairing its economic position. What should be stressed is that the number of firms which can actually guarantee wages to the bulk of their employees is relatively small.

There are other methods of stabilizing work and income, such as the guaranteed work week or month, the minimum income guarantee, and variations of these basic plans. All these methods are affected by the same problems as the guaranteed annual wage, but in view of their less extensive goals, they may be more easily applied. The degree to which management can utilize them will be determined in large measure by the extent to which the demand is foreseeable and slack periods can be utilized to produce and to store goods for peak production.

Some Collective Bargaining Problems

If effective and harmonious industrial relations are to be maintained, industrial relations managers must know how to deal with unions. Knowing that, they are more adequately prepared to handle labor problems whether or not unions are in the picture. Those equipped to deal with personnel only in non-union shops find themselves handicapped when the union enters. The remainder of this chapter discusses some problems that arise when the union enters, and it suggests ways of meeting them.[23]

When the Union Enters

A union organizing campaign, by its very nature, upsets existing relationships and unbalances emotions within a plant. The job of the union organizer is in many respects that of initiating the transfer of the employee's loyalty from the employer to the union. To accomplish this, he is likely to point up existing or imagined grievances, to promise extraordinary and often unattainable benefits, to appeal to the worker to join with his fellows at peril of being a social outcast, and to give impetus to the impulse of aggression and hostility which exists dormantly within most individuals.

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[22] See Rita Ricardo Campbell, "Recent Analyses of Annual Wage Guarantees," *Quarterly Journal of Economics*, **62**:542–561 (1948). The problem of annual wage guarantees is further discussed from other points of view in Chapters 6 and 12.

[23] This discussion owes much to the brilliant series of articles by Professor Benjamin M. Selekman which appeared in the *Harvard Business Review* in 1945 and 1946 and were later reprinted in his book, *Labor Relations and Human Relations* (New York, McGraw-Hill Book Company, 1947). See also, *When Employees Organize: What Employers Should Know and How They Can Utilize National Labor Relations Board Procedures*, reprinted from *The Labor Trend*, a supplement to the *Executive's Labor Service* (National Foremen's Institute, New York, 1946).

The purpose of the union, of course, is to win the representation election conducted by the National Labor Relations Board or otherwise to gain recognition from the employer as the bargaining agent. To accomplish this purpose, the union must sell itself to the workers, and just as in political campaigns, almost no holds are barred. Under such circumstances, the employer finds himself under extraordinary temptation either to talk back or to develop a keen emotional animus toward the union and its personnel. To succumb to either is likely to bring unfortunate consequences. Some employers, it is true, feel that they should keep the record straight for their employees, that they should advise their employees to vote in representation elections so that decisions will not be made by default, and that they should correct grievances which are called to their attention by the union organizing campaign. If done properly and accompanied by no acts of coercion toward the union, such acts are not considered unfair labor practices under federal labor law.

Wise industrial relations men, however, think beyond the narrow confines of legality. It is possible that the employees will choose the union to represent them—if not at this time, then at a later date. Every act that can be construed as anti-union or in opposition to the choice of a union by employees should be avoided. If the union engages in outrageously provocative acts, issues obviously false statements, and otherwise is lacking in fairness, the employees are likely to recognize that situation and vote accordingly. They usually do not need to be told by the employer that these things are being done, and they will resent being so told.

If grievances exist and the union calls attention to them, the employer gets no credit by correcting them during the organizing campaign. After all, the union reasons, why should he? It was the union that called them to his attention, and it was his failure to correct them previously that gave the union a strong entering wedge.

Negotiating the Agreement

When the election is over, the whole nature of the union-employer relationship undergoes a change. If the emotional attitude of the union leaders and that of the industrial relations director do not also mature with the new relationship, harmony is difficult to achieve. The union has the job of making good on as many promises to the employees as it can and of establishing itself firmly not only with those employees who voted against it but also with those who have been lukewarm, and it is troubled by a multitude of fears and doubts concerning the attitude of management.

Management has the opportunity to start bargaining relations off on the right foot by dealing with the union honestly and fairly and by forgetting any unpleasantness that developed during the organizing campaign. At the same time, union leaders can help to ease the situation by sending in a new man to aid in negotiations, a man who cannot be charged with the responsibility for any unpleasantness that developed prior to negotiations.

It is often wise to set up grievance machinery before negotiating the rest of the contract. This is a legitimate way to let off some of the steam which the organizing campaign bottled up. By giving prompt, efficient, and fair attention to grievances, management can prove its good faith, allay union fears, and win better terms for itself at the bargaining table. Moreover, smoothly working grievance machinery permits more thoughtful and deliberate negotiations and removes from them problems of individual employees, which are not properly the subject of a collective agreement but rather should be handled as grievances.

No matter how smart the union may be or how fair the employer (an employer's being fair does not mean inept bargaining on his part), there will always be some employees in the plant who will be dissatisfied with the results. Usually, they are groups to whom the union promised something that was not obtained. They are the union's problem as well as the employer's. Moreover, difficulties in the home may cause some employees to discover "grievances" which are merely figments of their imagination, for their private lives may have upset them emotionally.

These problems require sincere, sympathetic, and honest treatment by both management and union officials. Grievances should be settled, not won. It does no good to prove that a grievance did not really exist. Pent up grievances, however imaginary, are the sparks that flame into "quickie" strikes. A real attempt should be made to find the sources of the difficulties and to correct them even though they are totally unrelated to the grievances presented.

Even under the best conditions, the new relationship between management and labor may be hindered by an occasional "wildcat" stoppage led by irresponsible elements who cannot be controlled by union officials. It must never be forgotten that union officials are elected and, to retain their positions, cannot be too tough on contract breachers until their relationship with management is firmly established. Sympathetic understanding, rather than an emotional reaction, is needed in crises of this kind. Patience and good faith bear fruit. Often it takes a long time to establish good management-union relationships, but they are worth waiting for.

Foremen and Stewards

Relationships within the plant are upset by the entrance of the union, and that is especially true of the relationship between the foremen and the men who work under them. Foremen become uncertain as to their status. They wonder whether top management is accepting the new relationship, and if so, what it will mean to them. Employees, and especially union stewards, are likely to be a little cocky. "Things have changed," they might say. "We have the union behind us, and we will take foremen's orders with plenty of salt."

Immediate attention should be given to these shop problems. A management policy is just as good as the foreman who administers it. Foremen must be reassured as to their status and educated for their new jobs. They must be paid decisive differentials over the men they supervise. No time should be lost in establishing a class in the foremen's ideas for counterproposals to those of the union, and in coöperating with the union in instructing shop stewards as to their duties and limitations. Nothing is more conducive to strife than lack of harmony between foremen and stewards. Time spent in setting the lowest level of bargaining on the right pattern is never wasted.

> Ideally, a foreman should have at least as much training as a teacher; a superintendent or general manager, as much as a physician. The shop should serve as the clinic where practice complements and tests university teaching, much as the hospital serves the educational program by which physicians are trained.[24]

CONCLUSION

The job of handling industrial relations is a tough one. Its complexities and difficulties continue from day to day and appear ever to increase. In the words of Professor Selekman:

> Indeed, few professions today find their typical daily problems shaped by so portentous a range of influences as does industrial management. Unsettlement and the leftward drift of our time of change are variously internalized by the people working under each shop administrator as anxieties, sentiments, ideas, and sanctions. These in turn find expression in demands and drives that continuously disturb shop equilibrium and are implemented by union organizations which are generally powerful, and often young and crude.
>
> Difficult as is his task, the manager can hardly afford the luxury of retaliatory resentment. Instead, he must grant to the underlying motivations of workers who are always crossing him the validity that inheres in the aspiration to "get on." Administration then becomes something more than separate handling of disjointed problems—of objective action to meet technologic difficulties and moralistic reaction to human ones. Administration becomes truly the management of a continuing flow of interrelated factors, mutually interactive, with technology impinging on behavior and with behavior impinging on technology.[25]

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[24] B. M. Selekman, "Wanted: Mature Managers," *Harvard Business Review*, **24**:244 (1946).

[25] B. M. Selekman, "Wanted: Mature Managers," *Harvard Business Review*, **24**:244 (1946).

6

Industrial Jurisprudence

> Collective Bargaining . . . has two principal aspects. In the first place, it is a method of price-making—making the price of labor. In the second place, it is a method of introducing civil rights into industry, that is, of requiring that management be conducted by rule rather than by arbitrary decision. In this latter aspect, collective bargaining becomes a method of building up a system of "industrial jurisprudence." Through the institution of the state, men devise schemes of positive law, construct administrative procedures for carrying them out, and complement both statute law and administrative rule with judicial review. Similarly, laboring men through unions, formulate policies to which they give expression in the form of shop rules and practices which are embodied in agreements with employers or are accorded less formal recognition and assent by management, shop committees, grievance procedures, and other means are evolved for applying these rules and policies, and rights and duties are claimed and recognized. When labor and management deal with labor relations analytically and systematically after such a fashion, it is proper to refer to the system as "industrial jurisprudence."[1]

This chapter deals primarily with the industrial jurisprudence aspects of collective bargaining, leaving the price or wage aspects to the following chapter. These divisions of collective bargaining are of course closely entwined. We shall note their relationships in both this and the following chapter.

On occasions, labor and management do not settle their differences by peaceful means. The result is the strike, boycott, lockout, or other technique of "industrial warfare." The final section of this chapter discusses this phase of union-management relations.

The Modern Worker and Protective Rules

The rise of a system of industrial jurisprudence is traceable to a number of factors. Basically, however, it is the result of American workers' demands that industrial relations be conducted according to rules which labor has had a voice in formulating. Industrial relations by fiat of the boss is anathema to workers who have been raised on stories of American democratic principles.

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[1] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 1. This chapter is based primarily on Professor Slichter's excellent analysis.

The type of rules developed in a particular industry or shop reflects the problems encountered there. The industrial pattern, including the extent of product competition, the character of the labor market, the degree of union and non-union competition, the rate of technological change and a host of other socio-economic factors determine particular union policies. What one organization finds suitable in a particular situation, another will reject as unworkable in a different locale. Union policies are a function of their environment. Hence, we may expect to find a wide variety of policies pursued by the various unions. Popular statements that "All unions desire the closed shop" or "All unions favor seniority" or "All unions oppose incentive systems" have no bases in fact.

Union Security

A primary aim of most unions is "union security," and this usually involves some form of compulsory union membership. Whether a union will demand a "closed shop" (under which employees must join the union as a prerequisite to employment) or a "union shop" (under which the employer may hire anyone he chooses, but after a probationary period of 30 to 90 days, all employees must join the union as a condition of employment) will vary with the type of employment and labor market. In general, the closed shop is found among skilled and strategically located trades and in industries in which employment is casual and intermittent. The closed shop differs from the union shop primarily in that, unlike the latter, it is not only a means of "union security," but also a method of controlling entrance to a trade or industry.

Besides the closed or union shop, there are other forms of "union security." They include the War Labor Board sponsored compromise, "maintenance of membership,"[2] various forms of "preferential shop" which provide for preference of one type or another on the job for union members, and the "check-off," whereby the employer deducts union dues from workers' pay checks and turns them over to the union treasury.

In one industry, railroads, the closed and union shops and the check-off have been anti-union, not union devices. The Big Four operating railway unions (engineers, firemen, conductors, and trainmen) have found traditional union security devices unworkable. It is not practical to compel union membership where firemen and engineers, and conductors and trainmen are organized on a craft basis and where the same men hold concurrent seniority in two jobs. Typically, for example, a man is employed as a fireman and after some years is promoted to engineer. In times of slack work he may be demoted to a firing job. This back and forth movement may take place several times during an individual's career. If compulsory union membership of any type existed, most train and engine service employees would have to be "doubleheaders," i.e. retain membership in two unions, or else constantly be withdrawing from and rejoining unions throughout their careers. Moreover, compulsory unionism is made even more unworkable by the fact that the operating brotherhoods are large insurance companies as well as unions and, therefore, an individual employee not wishing to be a "doubleheader" would have to change his life insurance many times as well as his union membership if the closed shop were enforced. Since each change of life insurance would find the worker older, the cost to him would increase—an intolerable situation.

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[2] It provides that after a waiting period in which anyone may resign from the union without penalty, all those who are members or voluntarily join must maintain their membership as a condition of employment. No one must join the union as a condition of employment.

For these reasons, the brotherhoods have never attempted to write any such provisions into their contracts with the carriers. In their stead they have utilized first, rigid seniority rules which guarantee the individual a specific place on the roster for promotions and demotions; and second, and perhaps much more important, their insurance programs, benefits of which a member loses if he drops from good standing in the union. Together, these measures have proved effective enough to retain the overwhelming majority of train and service employees as union members.

The non-operating railway unions (shop, clerical, communication, track employees, etc.) would be able to utilize the traditional union security devices, but they found that such provisions would have to be outlawed if they were to rid their jurisdictions of company unions. For after the shopmen lost their nation-wide strike of 1922, the railroads encouraged the formation of company unions in non-operating crafts on approximately two-thirds of the nation's railway mileage. These company unions were entrenched by union shop and dues check-off provisions and by other employer aids. Consequently, when in 1934, the standard railway unions supported the amendments which were enacted to the Railway Labor Act of 1926, provisions were included which made illegal, as an *employer* unfair labor practice, all forms of closed or union shops, check-off, or other traditional union security provisions.[3]

The Basis of "Union Security" Demands[4]

In 1947, the United States Bureau of Labor Statistics estimated that approximately 85 per cent of the 15,000,000 workers covered by collective agreements were included under closed shop, union shop, or maintenance of membership agreements. Although the Taft-Hartley Act outlawed the closed shop and required unions to win approval of a majority of workers in a bargaining unit in order to bargain for a union shop or maintenance of membership agreement, there was no appreciable decline in union security contract provisions by January 1949.

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[3] See *First Annual Report of the National Mediation Board* (1935), Appendix A.

[4] This section owes much to an unpublished essay by Walter J. Couper of Industrial Relations Counselors, Inc.

Incorporation into labor-management contracts of requirements that employees must join or remain union members is a unique American institution.[5] Labor union leaders from other countries have expressed both amazement and repugnance at compulsory union membership.[6] An understanding of American labor history is required to comprehend the reasons for the existence of union security provisions.

For the reasons discussed in Chapter 2, the growth of the American labor movement has been slow and employer opposition to union recognition, strong. The closed or union shop became a necessary weapon for union existence in most industries. Only if union security was achieved could the union count on effective protection from employer discrimination against union members. In many cases, the closed and union shop provisions were necessary to induce workers to join the union, not so much because of their reluctance to join, but because of their fear of consequences in the form of employer retaliation if they joined voluntarily.

In England, unions found no need of union security. The English unions grew at a more rapid rate than those in the United States and encountered much less employer opposition. Complete union membership was achieved not by union security provisions in contracts, but by direct action among employees. Men unwilling to join unions in England are usually compelled to do so either because union men will not work with them, or else because they find that failure to join unions means social ostracism or other types of effective pressure. Such methods proved ineffective in America in the face of employer opposition to unions and the lack of class consciousness on the part of employees.

In Sweden, the union security issue was taken out of collective agreements by industrial relations statesmanship. The central employer and union federations agreed in 1906 that employers would recognize unions as bargaining agents for workers, and unions in turn would not demand the closed or union shop.[7] At the same time in the United States, the National Association of Manufacturers was waging a "holy" war on unions under the slogan that the "open" shop was the "American way." Small wonder that in the United States, the refusal of employers to grant the closed or union shop has often been taken by unions as proof that the employer would like to destroy the union!

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[5] New Zealand requires by law compulsory union membership under certain conditions.

[6] See, for example, the speech of W. J. Brown, head of the Assistant Clerks' Association, of Britain, before the American Management Association, October 1941.

[7] Paul Norgren, *The Swedish Collective Bargaining System* (Cambridge, Harvard University Press, 1941).

Theoretically, the passage of the National Labor Relations (Wagner) Act in 1935 eliminated much of the need for union security. This act outlawed employer discrimination against workers because of union membership and required employers to bargain with duly certified unions. Nevertheless, union security demands lost none of their intensity. This was true partly because union leaders and members believed, often with considerable evidence, that employers were opposed to unions and could circumvent the law; partly because emotionally they could not imagine successful unionism without the closed or union shop; and partly because of a new development—the rise of rival unionism on a scale heretofore unknown. The existence of a union security provision has acted to deter union raiding, and thus give unions "security" from another angle.

If union demands for union security are to a large extent survivals of earlier situations when such contractual provisions were necessary, management's response is likely to be equally anachronistic.

> In some situations where employees are almost completely organized and there is no real possibility of hiring non-union men or of undermining the union and perhaps not even any desire to do so, corporate managements respond to a demand for a union shop with the emotional reaction that would have been naturally expected of a sole proprietor of a small business at the time when unions were generally regarded as criminal conspiracies. Their instantaneous reaction is resentment against outside interference with an individual's right to manage his property as he chooses, forgetting that most present managers are no longer simply individuals, or owners, but hired representatives of a group and that concepts of property rights have been significantly modified in many ways during the last hundred years. This resentment may be rationalized into solicitude for the welfare of the wage earners, whether few or many, who genuinely and for their own good reasons do not wish to join the union. But the resentment rather than the solicitude underlies the opposition. There is fear also of what granting the demand might imply for the future; for example, that it might facilitate further improper encroachment on managerial prerogatives or functions.[8]

Basically, arguments pro and con the closed or union shop are impossible of reconciliation. If one believes that under no condition should a person be compelled to join a union, one is opposed to union security. If one believes that persons should be compelled to support an organization which has won certain benefits, one supports union security. These are irreconcilable value judgments.

Although nearly all unions advocate union security provisions, such provisions may in the long run be detrimental to the unions themselves.

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[8] W. J. Couper, unpublished essay, pp. 8–9.

This is particularly true in cases where a union or closed shop exists and employment in the plant expands considerably so that new workers are enrolled in the union faster than they can be assimilated. The new employees, not being aware of the improvements which the union may have brought in wages and working conditions, are likely to be antagonistic toward compulsory union membership and to regard the requirement that they pay union dues as an unfair deduction from their earnings. Conscripts do not make good union members. In times of strife or other difficulties, the union finds that its bargaining power has been reduced because of the fact that it cannot count upon its members who, without experience or indoctrination, were forced into the union.

The most fundamental charge against union security provisions is that they encourage dictatorial union administration. These, however, are abuses which can be curbed. For example, by forbidding unions to cause the discharge of employees except for non-payment of dues, the Taft-Hartley Act mitigated one abuse. A more thorough program, as proposed by the American Civil Liberties Union, would subject expulsions from unions to impartial arbitration and would outlaw unreasonable restrictions on union membership. The latter would curb the closed union which is frequently confused with the closed shop.

The Taft-Hartley Act, as noted, outlawed the closed shop and required a majority vote of affected workers prior to the negotiation of union shop or maintenance of membership agreements. The former provision was apparently aimed at limiting union control over entrance to the trade. The latter was prompted by the belief that the rank and file would oppose compulsory union membership. The votes, on the contrary, have averaged eight to one in favor. As a result, former proponents of this section of the law urged its elimination as a "waste of time and money." The net effect has not only been to demonstrate rank and file approval of the union shop, but also to intensify the belief on the part of both union leaders and members that union security is an essential of union existence.

Control of Entrance to the Trade

Attempts to control entrance to the trade are limited largely to craft unions. Except for a few such as the United Mine Workers, who have been able to utilize license laws, industrial unions do not find it feasible to control entrance. Their members learn their tasks by experience. They permit the employer to recruit the work force, and exert their control in other ways.

Craft unions, however, have found that control of entrance is an effective method of increasing their bargaining power. Their efforts take two principal forms: regulation of apprenticeship and support of licensing legislation.

Regulation of Apprenticeship

Nearly all unions which have journeymen or occupations for which apprenticeship is usual attempt to regulate the terms and conditions for the employment of apprenticeship. Since apprenticeship is only one of the many ways in which vocational aptitude may be gained, in most occupations training is acquired by other means. As a result only about one-fourth of American unions actually participate in apprenticeship regulation.

The most common method of regulating apprenticeship is to control the proportion of apprentices to journeymen. If unions did not regulate this ratio, employers would be in a position to hire nearly all apprentices and thus to drive the journeymen out of their jobs.

Agreements in such industries as the printing and building trades, where craft unionism is common, normally contain provisions for the employment of one apprentice to every four to eight journeymen. In addition many unions negotiate agreements which place an absolute limit on the number of apprentices which can be hired.

In addition to controlling the number of apprentices by a direct limitation, unions can also control apprentice training by controlling the wages of apprentices. The higher wages of apprentices are set, the more costly it is for the employer to use apprentices. Thus a liberal ratio of apprentices to journeymen may be nullified by an unreasonable rate for the use of apprentices.

Few unions require the serving of an apprenticeship as a condition of membership. Perhaps more would, if they completely controlled entrance to their trade. The fact of the matter is, however, that so many Americans either pick up a trade without formal training or have secured their training in foreign lands from which they emigrated that it would not be practical for unions to make apprentice training an absolute prerequisite.

The reasonableness of union apprentice regulation varies from industry to industry and it is difficult to determine in many cases. Certainly, there has been considerable evidence in certain trades, including building and printing, that union apprentice regulations have been utilized to prevent newcomers from winning a place in the industry, and in other cases such limitations have actually created artificial shortages of labor. For example, in the New York mirror industry, union restrictions prevented the employment of apprentices for over fifteen years so that by 1946 an intense shortage of labor developed.

One must make several qualifications, however, to any blanket condemnation on union restriction of apprentices. In the first place, some restriction is essential to prevent employers from keeping apprentices at work and laying off journeymen. In the second place a number of studies have shown that non-union employers do not hire as many apprentices as union employers; and that in addition many union employers do not hire as many apprentices as the union rules permit even in cases where the wage rates for apprentices are not excessive.[9] These findings should not be surprising. The employment of apprentices can be costly to employers, particularly during the first two years of the average four-year apprenticeship. An apprentice is likely to cost more than he is worth in terms of production. Moreover the employer has no guarantee that the worker will remain either for the full apprenticeship course or that if he completes the course, he will remain as an employee with the employer who trained him. Consequently, many employers do not hire apprentices even when there are no union bars to their employment.

Unions perform some definite services in regard to apprentice training. For one thing the existence of a strong union prevents an employer from keeping an apprentice on a particular task which he has mastered instead of giving him a well-rounded mechanical education. The temptation for employers to confine apprentices to a small section of the mechanic's job is very great, for in such cases they are receiving work of mechanic's quality for apprenticeship wages. In addition apprentices who jump their training usually find the existence of a union a bar to attempts to pass themselves off as journeymen. This protects the public and employer against poorly trained mechanics.

On the other hand, unions have tended to maintain or even to extend the terms of apprenticeship when they have become obsolete. Thus it is highly doubtful whether today four or five years is a necessary term for learning many of the building crafts which require apprenticeships of that duration. It would appear probable that these terms could be shortened, but unions fear to do that because their rules and restrictions are based on the number who can be expected to become journeymen after four- and five-year apprenticeships. Any reduction in the terms would probably be accompanied by a reduction in the percentage of apprentices permitted in union agreements.

Finally apprentice training as a whole is not likely to be a very efficient method of providing qualified labor when it is needed. Typically, during periods of depression, no apprentices are trained so that in following periods of prosperity, there is a great shortage of skilled labor. Then in the prosperity period the number of apprentices being trained increases tremendously. By the time some of these apprentices become qualified journeymen, business conditions and their opportunities for employment have worsened. If apprenticeship training is to be continued, it may have to be done at public expense in order to insure a continuous supply of skilled craftsmen.

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[9] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 15–34.

Licensing Legislation

A number of unions have sought to limit entrance to the trade by means of licensing legislation. Most prominent among them have been the plumbers, electricians, barbers, miners, stationary engineers and firemen, and motion picture operators. These unions have sponsored state laws and municipal ordinances which require workers in the trade to pass tests as a condition of employment therein. Generally, these laws give unions and employer associations prominent places in their administration. Ostensibly, they are enacted in the interest of the safety of the consumer. Actually, their real purpose from a union point of view is to limit entrance into the trade and to increase union bargaining power by making it more difficult for employers to employ strikebreakers.

No careful study of licensing legislation has ever been made. Such evidence as is available, however, indicates quite clearly that licensing laws are frequently abused and that their value to the consumer varies considerably. For example, such laws may be used as a vehicle for race discrimination and thus prevent qualified Negroes from practicing a trade. It is also quite apparent that the ease or difficulty of the examinations given by licensing boards varies with the business cycle and that in times of depression, it is exceedingly difficult to pass such examinations.

The problem of licensing legislation extends beyond the limitations of unions. The medical, legal, dental, and the other professions which advocate licensing legislation have encountered the same problems. Any study of the value of licensing legislation to the community should include the activities of the American Medical Association as well as those of the United Association of Plumbers and Steamfitters of the United States and Canada.

Although the purpose of licensing legislation is to limit the number of workers in the trade, it may well be that it has the opposite effect. By making it almost impossible to import strikebreakers, licensing laws enable unions to raise wages. This is likely to attract workers to the trade since the average person thinks in terms of hourly rates rather than annual earnings. Hence, the net effect of licensing laws may be to increase rather than decrease the number of workers in a craft. The effectiveness of the licensing laws and their administration from the union point of view will then be determined by the extent to which the legislation prevents the pool of labor attracted by the high rates from entering the trade.

CONTROL OF HIRING

In an unorganized labor market, the employer controls both hiring and layoffs. When a union enters the picture, it must secure some voice in at least one of these vital matters. Otherwise, the union can be of little service to members who fear discrimination because of union membership, or who want hirings and/or layoffs conducted by rules rather than by employer fiat.

Methods of Controlling Hiring

The most usual method of controlling hiring is by means of the closed shop, requiring employers to hire only members of the union, or if none of the latter are available, persons willing to join the union. Some agreements go further by requiring the employer to hire only through the union office or through a hiring hall which may be controlled by the union, by the union and the employer in coöperation, or by a third body, e.g., a government bureau.

In addition to the closed shop, union control over hiring may be achieved by agreements providing for preference for union men in hiring. The net effect is likely to be no different from the closed shop, because all workers join the union to secure preference.

Control over layoffs often involves indirect control over hiring, especially if, as on the railroads, employment is declining on a secular basis. In the railroad industry, the unions have concentrated on controlling layoffs by the seniority principle.[10] The seniority agreements, however, provide for preference for furloughed men in rehiring in the order of the furloughed men's seniority, i.e., length of service with the company. If there is a large pool of furloughed men, the employer's freedom to hire is restricted almost as severely under this type of seniority agreement as under the closed shop.

Besides these general controls, a few unions have restricted the right of employers to require physical examinations; or have secured agreements providing for the employment of a limited number of older workers or of local workers. Except possibly for the last, these restrictions are of little importance since they arise out of particular situations. For example, physical examinations were once widely used by employers to rid themselves of active union members, but this practice is no longer common. Requirements that employers hire a certain percentage of older workers are far less important than seniority provisions in safeguarding jobs for the older worker in industry. And restrictions on hiring non-local employees are found mainly in the amusement and building trades where they are utilized to improve job prospects of local workers against traveling amusement companies or non-local building contractors who are likely to hire their labor at their home location. Restrictions on the use of non-local labor assume more importance in depressed times as local unions, often contrary to national union policy, attempt to "look out" for the local members.

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[10] See below, pp. 154–160 for a discussion of seniority.

As in the case of control over entrance to the trade, control over hiring is practiced mainly by the craft unions. The main exceptions involve, first, such control over hiring as results from control over layoffs (for example, seniority provisions); and second, control over hiring by industrial unions in industries where employment is casual and intermittent or seasonal, as in the maritime or needle trades. Most other unions do not operate in labor markets which permit them to exert control over hiring. Hence, except indirectly through seniority provisions, most industrial unions concentrate on control of layoffs and do not attempt to restrict employer control of hiring.

Effects of Restrictions on Hiring

The effects of restrictions on hiring vary considerably. Obviously, as our study of union admission policies in Chapter 4 showed, the closed shop can be a very restrictive vehicle if combined with discriminatory admission policies, high initiation fees, or the refusal to admit new workers to the union. On the other hand, the closed shop need not be, and often has not been, accompanied by these abuses. Moreover, even with restrictive admission policies, a union may not unduly curtail the supply of labor to the firm or industry. Because union rates are most always higher than non-union ones, a larger pool of labor is often attracted than can find employment in the union organized shops. "This explains the paradox of a large number of local unions practicing restrictive membership policies without depriving employers of an adequate labor supply."[11]

Hiring Halls

It is quite common in many industries where the average employer is small and the unions are organized on a craft basis for the employer to hire through the union office. Sometimes this custom arose more as a convenience to employers who wanted a central hiring office than as a means of union control. Generally, however, it is a result of union demands provoked by special market conditions. In trades or industries where employment is intermittent or casual, for example, building or maritime, hiring through the unions is the only method by which the union can secure equal division of work for its membership and end systems whereby a small portion of the membership secures the bulk of the available work.

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[11] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 67.

Although unions may demand that employers hire through them in order to avoid abuses, the net effects may be the substitution of new abuses for old. For example, in the building trades the business agent has frequently substituted his favoritism for that of the contracting foreman. The opportunities to use job dispensations as a means of building up one's personal political machine within the union are immense, and the temptation is frequently succumbed to. In order to protect themselves against such methods, the rank and file of many unions may require officials to rotate jobs on a first come, first served basis. This, however, can place a heavy burden on both employers and on the most efficient men. It severely restricts the right of employers to choose men whom they deem competent. And since, especially in the building trades where the unions do not control layoffs, the least efficient are the first fired and thus the first in line for new jobs, the efficient men are at a disadvantage once they are laid off.

In the garment trades, where employment is highly seasonal, unions control hiring, but permit employers latitude in rejecting employees. Thus a typical agreement provides that employees of a given craft may be sent in rotation, but the employer has the right to discharge without union complaint during a two-week probationary period. Contracts in other industries vary, some giving the employer the right to reject at least two persons sent by the union office for a job, but upon rejecting a third, the union may challenge the employer to prove incompetency through the grievance machinery.

Formal hiring halls have been established most commonly in the maritime industry. Because employment in this industry is casual, there is usually a larger labor force attached to it than there are jobs at a given time. This has encouraged a host of anti-social hiring practices and racketeering at the expense of the workers, such as selling jobs, forcing employees to borrow money at exorbitant rates or to patronize retail establishments in which employers have an interest, etc. Longshoremen in New York City are still employed without a central hiring establishment despite the fact that a series of studies since 1915 have urged that the present system be abolished and despite what appears to be public knowledge that the New York City waterfront "because of a reign of terror by racketeers, has developed into 'a Western outlaw frontier.'"[12]

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[12] From a statement by the assistant district attorney of New York County, in charge of rackets, Murray Gurfein, *New York Times* (January 17, 1942). It appears that at least one murder occurs every six months over which gang shall control these waterfront rackets but no protest is ever heard about them from the International Longshoremen's Association (AFL) or its president-for-life, Joseph Ryan, an ardent opponent of all centralized hiring plans. ILA officials are often involved in these gang wars. Among the many studies of the New York longshoremen are C. Barnes, *The Longshoremen* (New York, Survey Associates, 1915); and U. S. Maritime Labor Board, *Report to the President and to Congress* (1941).

As a result of these practices, hiring halls have been established by the International Longshoremen's and Warehousemen's Union (CIO) on the west coast and nearly all the non-officer seamen's unions. Although theoretically a number of these hiring halls are jointly run by labor and management, union control appears to be dominant. For example, the requirement that the dispatchers who send out the longshore crews on the west coast be members of the International Longshoremen's and Warehousemen's Union won almost complete control of the hiring halls for the union in the 1934–1948 period.

The hiring halls for seamen are frequently under full union control. "The National Maritime Union (CIO) has fought hard for union-controlled hiring halls partly in order to equalize employment opportunities but partly to make the men more dependent on the union and to prevent companies from developing more or less permanent crews which are loyal to the company."[13] In recent years, however, employers in the maritime industry have apparently been satisfied with the NMU's hiring halls because they have expressed apprehension over the possible effects of the Taft-Hartley Act on their continued existence.[14]

The Seafarers International Union (AFL), like its CIO rival, operates a hiring hall system. An important complaint against this organization has been its adamant refusal, even in wartime, to dispatch Negroes for maritime jobs, except as stewards, no matter what the need or the individual Negro's qualification.[15]

Experience with hiring halls in the west coast longshore industry has been featured by employer charges that the union dispatchers have refused to supply employers with new workers if men were discharged because of incompetency and have favored adherents of the Communist party with jobs. The demand of employers for an impartial dispatcher was a factor in the long strike of 1948 there.

Closed Unions and Hiring Halls

In the maritime industry hiring hall schemes must assume some restrictions of entry to be workable. One of the causes of favoritism and racketeering in hiring on the waterfront is the fact that, especially in depressed times, unemployed workers drift there, often attracted by the high hourly rates. If the "drifters" are granted free entry into the organization, the hiring hall becomes a vehicle for sharing poverty rather than sharing work. The unions must therefore either refuse admission to newcomers, or enforce some sort of seniority regulations which modify rotation schemes and give preference to the workers who have been longest attached to the industry. The former policy is more often pursued because the admission to membership of workers for whom there are no jobs provides a hard core of opposition to incumbent union officers. Moreover, the "unemployed brothers" are likely to congregate in the union hall and to be able to attend all meetings. They thus are in an excellent position to embarrass the union officials.

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[13] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 84–85.

[14] *New York Times* (August 19–23, 1948).

[15] Malcolm Ross, *All Manner of Men* (New York, Reynal and Hitchcock, 1948), pp. 103–117.

Control of Layoffs

Widespread union interest in control of layoffs is a direct result of the violent fluctuations of the business cycle in America. The depression which began in 1929 stimulated a tremendous interest in seniority and division of work provisions. Indeed, thousands of workers joined unions during the 1930's because they believed that layoffs during the depression had been unfairly conducted and they wished to prevent recurrence of such experiences.

The interest of unions in layoff policies stems then, on the one hand, from the worker's desire to know where he stands—that is, to know what chance he has of retaining his job in case the business of the firm materially declines—and on the other hand, from the desire of unions which cannot control hiring to prevent employer discrimination against union men in layoffs.

Not all unions attempt to control layoffs. In industries such as building and maritime, union control of layoffs is not feasible. Thus provisions to give preference according to seniority or to divide the available work among existing employees have no meaning on a construction job which is completed in a given period or in a maritime position which is over when the ship returns to port or when the ship cargo is loaded. These unions, as noted in the previous section, concentrate their control on hiring. The labor market in which they find themselves precludes layoff control.

Methods of Controlling Layoffs

The two basic methods of union layoff control are seniority and equal division of work. Seniority agreements generally provide that the first employee hired in a plant or subdivision thereof shall receive preference in layoffs and rehiring. In some cases as on the railroads, seniority agreements are quite rigid, the only requirement being ability to perform the job. In other cases seniority provisions are much weaker, giving the employer the opportunity to select a more competent person over one with greater seniority. A few agreements provide for the employer to retain a small percentage of personnel in slack times regardless of seniority so that the plant will be manned by a key basic work force. Other agreements place the union shop steward or committeeman at the head of the seniority roster.

The mere reading of a union-management collective agreement does not tell one how rigid the seniority provision actually is in practice. Even though an agreement may provide for ability to have equal consideration with seniority, the practice may be to layoff and rehire solely on the basis of seniority. Likewise, agreements calling for strict seniority are sometimes interpreted to permit dilution of that principle.

Seniority is most common in the railroad, automobile, iron, steel, rubber, electrical products, and other mass production industries. In the mass production industries the extent of the seniority district or unit varies considerably. Sometimes it is by plant, sometimes by plant division, by department, by occupation or by some combination thereof. In general, management prefers the smallest possible seniority districts with no provisions for workers to hold seniority in more than one district. Under such regulations layoffs and rehiring do not involve much dislocation in the plant and hence do not interfere materially with the efficient organization of personnel.

Union and employee preference as to the size of seniority districts varies considerably. In general in times of unemployment, skilled workers prefer wide seniority districts and unskilled workers narrow ones. This is because skilled workers can replace unskilled ones but not vice versa. Hence, the wider the seniority district in times of layoffs the greater the chance for the skilled worker to find a spot by exercising his seniority, and the greater the chance that the unskilled worker will be pushed out of a job. In times of prosperity the opposite is likely to be true because expanding employment gives unskilled workers the opportunity to advance in the occupational hierarchy and this they like to do without sacrificing their seniority in their former jobs. On the other hand skilled workers see in expanding employment more competition for jobs when times become depressed. Hence, they favor narrow seniority districts during prosperous periods.

The attitude of union officials varies, but the writers have observed an increasing tendency of union leaders to shift their preference from large districts to narrow districts. Apparently, many union leaders have come to the belief that the narrower the seniority district, the less the internal union stress in times of depression.

Division of Work

In a number of industries, division of work is either substituted entirely for the seniority principle or combined with it. The garment trades provide the outstanding example of the complete use of division of work as union layoff policy and the almost complete absence of the seniority principle. The reason for this fact is that the average worker in the garment trades is employed not by one company but by several during a given year. The industry is highly seasonal so that a worker who has 25 years' experience in the labor market may be the last one employed by a shop which is no longer able to operate at full capacity. The seniority principle would work a hardship on the more experienced worker because he happened to be the last hired during this particular season. Hence, most contracts in the garment trade provide for complete division of work among all employees in the shop regardless of length of service. The one exception is for probationary employees who are hired under closed shop agreements which permit the employer to place new workers on two to four weeks' probabion during which the new employees may be discharged for any cause whatsoever. Usually the garment labor agreements provide for the laying off of probationary employees before the division of work commences.

Many unions and employers have found that a combination of division of work and seniority is an equitable compromise. A typical agreement in industry today may provide for division of work within a department of a plant up to the point where the employees are working an average of 32 hours per week. Thereafter, employees are laid off on the basis of seniority so that the average hours in the shop or department are maintained at 32. This permits the maximum number of employees to work without converting division of work into a division of poverty. For if the average hours per week fall below 30, no employee will earn enough to support himself.

Some Effects of Seniority

The widespread use of seniority provisions in industrial relations has some salutary and some very dangerous effects. The most important argument in favor of seniority is that it affords the worker knowledge of his position vis-à-vis his fellow workers. Although seniority is frequently confused with security, it should not be since, if the plant in which the worker holds seniority ceases to operate, seniority is of no value whatsoever. Moreover, for every worker which seniority retains on the payroll, another must be discharged. Seniority, however, is an impersonal criterion and rules out personal favoritism which workers fear so much. And it does have a sort of rough justice since it gives preference to those who have worked the longest and who presumably have the greatest equity in their jobs. These are the sources of its popularity.

On the other hand, it cannot be denied that seniority puts a premium on mediocrity. The person who is least willing and able to take advantage of opportunities in other plants or who has least ability and, therefore, does not receive such opportunities is the one who stands the greatest chance of reaching the top of a seniority roster. For those who like to get ahead by standing still, seniority is a godsend. For those who yearn for the opportunity to advance on merit, seniority is a bane.

Seniority reduces plant efficiency by giving key jobs to men past their prime, by disregarding ability, and by discouraging incentive. And it reduces labor mobility because men fear to give up seniority to take a new job.[16]

A seniority rule requiring that furloughed men be rehired in order of their seniority is likely to increase the labor reserve attached to an industry. Despite unemployment in the railway shops and higher wages in war production, railway shop employees refused to leave that industry because they did not wish to lose their accumulated seniority. Special agreements which provided for retention of seniority by men who left peacetime jobs for war production got around this difficulty. In ordinary times, however, the effect is to create an unemployed group in some areas even where preferable employment is available elsewhere.[17]

The "rough justice" of seniority may, moreover, be very crude. For example, during the depression, railroad employees of fifteen and twenty years' experience were furloughed. Obviously, many of these were family men with as much equity in their jobs as those who were retained on the payroll, or even more. For the oldest employees in service are often grandparents, the peak of whose family and financial obligations has passed, whereas the middle group are most likely to be in the life period of top responsibility.

In a few instances, seniority and other union layoff policies may improve managerial efficiency. The fact that employers can no longer discharge workers at will forces them to improve selection and training facilities. Moreover, union controls prevent the degrading practice of buying favors from foremen and other such favoritism on the job.

From the community point of view, seniority gives the not-quite-so-efficient worker an opportunity to improve instead of being cast out, often prematurely, as unemployable. And it saves the older worker from being unemployed despite many years of efficient service.[18]

On the other hand, seniority keeps on the job a number of workers who are superannuated, but who have not reached retirement age. Flexibility is needed in seniority and retirement rules so that the high cost of keeping these workers on the payroll will not retard employment of more productive personnel.

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[16] See D. H. Mater, "A Statistical Study of the Effect of Seniority Upon Employee Efficiency," *Journal of Business*, **14**:169–204 (1941); and "Effects of Seniority Upon the Welfare of the Employee, the Employer and Society," *Journal of Business*, **14**:384–418 (1941).

[17] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 152–153.

[18] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 159–161.

Seniority has many important effects on union policies. In the railroad industry, the effect of union policies on employment is not clear. Even if, as many persons argue, union wage and make-work policies[19] have the effect of reducing employment by raising costs, it is doubtful if union policies would change. For under the seniority rules, the railway unions know that any unemployment resulting from their policies will automatically fall on the junior men. Since the unions are run by the senior men, the policies reflect that control. This cleavage between the unemployed senior men and the unemployed juniors has been noted in several industries.[20]

Seniority causes many other internal union problems. For example, there is frequently dispute over what constitutes length of service. Occasionally, service is interrupted for one reason or another and a wide divergence of opinion is likely to arise both between employer and union and among employees as to whether breaks in seniority for one or another reason should be overlooked. On numerous occasions internal union disputes over seniority provisions and their interpretation have resulted in lengthy and costly litigation.[21]

Seniority provisions have profound effects on strikes. In the first place, the senior men are much less willing to strike than those who have less seniority and hence less to lose. "Quickie" strikes called without union approval were numerous in Detroit automobile plants during World War II, but declined precipitously after war production was cut back. The basic reason was that during the interim between full war and full peace production, the newer workers in the industry were laid off because of seniority provisions. The senior men who then made up the employed labor force, being much less "quick-on-the-trigger," settled their grievances peacefully.

Seniority makes strikes which do occur difficult to win for unions and even more difficult to settle if strikebreakers are employed. Once on strike, senior men are likely to be apprehensive and to be ready to return at the slightest hint that their jobs are being filled. At the same time, junior men are likely to be strongly tempted to scab in order to leap from the bottom to the top of the seniority roster.

The difficulties for striking unions resulting from seniority provisions are increased if employment is declining secularly, or if a pool of labor exists which has little opportunity for employment except as strikebreakers. The railroads are illustrative of the former situation. The nation-wide shopmen's strike of 1922 was defeated partially because supposedly striking junior men on one carrier took employment on other carriers in order to obtain higher seniority ratings.[22] Strikes of railway unions against individual railroads since then have been saved from defeat by junior employee strikebreaking only by pro-union federal intervention.

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[19] Make-work or "featherbedding" policies are discussed below, pp. 163–168.

[20] J. Shister, "The Theory of Trade Union Wage Rigidity," *Quarterly Journal of Economics*, 57:523–524 (1943).

[21] See D. H. Mater, "Seniority in the Courts," *Journal of Business*, 12:152–174 (1939).

We have already noted the divergencies of opinion on the extent of seniority districts. There have been many controversies over this matter, and no solution is entirely satisfactory to workers or management.[23]

Seniority rules tend to perpetuate racial discrimination in industry. Many Negroes entered industry for the first time during World War II and many won permanent positions. Because, however, Negroes were the last hired, they automatically were the first laid off when war production was cut back.

On the other hand, seniority also has protected minority workers. The widespread discrimination against Negroes (regardless of seniority) which occurred after World War I, was not repeated after World War II because of protective seniority regulations which kept Negroes on the job if their seniority permitted.[24]

The extent to which seniority should be diluted by ability is a constant source of friction in some plants. In general, it may be said that managements which have attempted to retain superior men in layoffs have a greater chance of escaping union challenge if they do so only when the superiority is obvious. If, however, attempts are made to disregard seniority when the differences in ability between junior and senior men are not obvious, the union will probably press for a straight, undiluted seniority clause.

Seniority and Promotions

Besides being used to govern layoffs and rehiring, seniority is also being increasingly used to determine promotions. This accentuates the evils of seniority, because it puts a premium on service as against skill. Seniority in promotions has been carried to an extreme in the railroad industry. Undoubtedly, the lack of initiative which characterizes this industry is at least partly attributable to the fact that seniority prevails to a considerable degree in the selection of personnel in railway management as well as for employee positions.[25]

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[22] H. Wolf, *The Railroad Labor Board* (Chicago, University of Chicago Press, 1927).

[23] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 140.

[24] H. R. Northrup, *Organized Labor and the Negro* (New York, Harper and Brothers, 1944), chap. 7–10; L. H. Bailer, "The Automobile Unions and Negro Labor," *Political Science Quarterly*, **49**:548–577 (1944).

Obviously, continued emphasis on selection of personnel by seniority diminishes initiative and reduces opportunities for younger men. Moreover, within unions it increases the cleavage between the junior and the senior men. Industry and society need young men with new ideas and the courage to put them into effect. By overemphasizing seniority in industry, government, and in other walks of life, society retards the advancement of wealth and progress.

Fortunately, in many industries seniority provisions relating to promotions are much more elastic than those relating to layoffs. In order to keep them so, management must improve its testing and training procedures and it must not abuse the power to promote without regard to seniority.

Despite the limitations of seniority in both layoffs and promotions, its widespread use is likely to continue. And the main reason for this fact is that men have not discovered sufficiently accurate objective testing methods or criteria for rating other men. When an employer states that, because Jones is the more able, he is laying off Smith instead of Jones even though Smith has the higher seniority, that may be only the employer's opinion. Men who are equally fair-minded and capable may come to the opposite decision. Despite the ill effects of seniority, we have failed to develop an adequate substitute.

Analysis of Equal Division of Work

The main advantage of equal division of work is that it preserves union solidarity, for all members of the union are treated equally and cleavages, such as those which develop between senior and junior men under seniority provisions, are avoided. The main difficulty with equal division of work plans is (1) that they are likely to be utilized to a point where no one secures adequate compensation, and (2) they tend to be used to meet permanent declines in employment although they are essentially ill-suited for such use.

Work sharing below 30 hours has the effect of reducing the incomes of the entire work force. It often puts everybody on a relief standard. In many instances it is preferable to set a limit below which work will not be divided, and to institute temporary layoffs at that point. The practical difficulty is deciding which members shall be laid off. Seniority is usually the criterion used, but in industries such as the garment trades, it would not be workable. Despite the weaknesses of complete division of work which are well understood by many union leaders, it is often considered preferable to maintain the division at very low employment levels rather than to stir up intraunion strife by suggestions that a portion of the workers be laid off so that at least some of the work force can earn a living.

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[25] Perhaps the worst example of promotion by seniority is found in the United States Congress. Year after year, committee chairmanships go to persons who are obviously unqualified by any other standard except that year after year they managed to survive election contests.

The other problem of division of work occurs when the layoff is not a short term phenomenon resulting from a seasonal or cyclical decline in business, but is the result of a permanent drop in business and/or employment resulting from secular factors or technological advancement. Here again the union is faced with a dilemma. If it enforces its work sharing program, it becomes an agency for encouraging workers to remain attached to the industry at low incomes—in other words, the union converts itself from an income-raising to an income-lowering instrument. This is precisely what happened in the New York City live poultry industry,[26] the leather industry,[27] and what apparently will happen in bituminous coal mining if the substitution of competitive fuels for coal continues to be encouraged by nation-wide mine strikes and the wage-price raises which have followed.[28]

On the other hand, if the union adopts a program of reducing the labor force attached to the industry, a cleavage is likely to develop within the union over who is to be severed. Here the best possibility for settlement appears to be a program of dismissal compensation.

DISMISSAL COMPENSATION

In addition to seniority and division of work, recent years have seen a tremendous increase in interest in dismissal compensation and in various types of guaranteed employment and guaranteed wage plans. Dismissal compensation is fundamentally a device to mitigate losses resulting from permanent dismissal rather than temporary layoffs. It is utilized in instances in which employees are severed from the payroll as a result of plant abandonment or movement to another area, or as a result of a permanent decrease in the working force. In cases of permanent severance of employees who are near, but have not achieved, the retirement age, dismissal compensation may be used to make up earnings until the employee reaches the age when he is eligible for pensions.[29]

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[26] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 137–138; U. S. Department of Agriculture, Miscellaneous Publication No. 283, *Economic Survey of the Live Poultry Industry in New York City* (1937), pp. 10, 108–111.

[27] Leo Brown, *Union Policies in the Leather Industry* (Cambridge, Harvard University Press, 1946).

[28] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 138–139; W. E. Fisher, "Bituminous Coal," in *How Collective Bargaining Works* (New York, The Twentieth Century Fund, 1942), pp. 275–279.

Dismissal compensation plans have been negotiated by most of the railway unions to take care of employees who are severed as a result of the consolidation of facilities by two or more railroads. The American Newspaper Guild and the Oil Workers' International Union have also negotiated elaborate dismissal compensation schedules in many of their agreements.

In most instances, however, dismissal compensation plans are negotiated at the time that a large severance of employees occurs, since layoffs of the type which require compensation are not usual events. Often such agreements grant compensation on the basis of service with the company.. Usually the payments are made over a period of time, although some agreements call for a lump sum settlement.

Dismissal compensation is an admirable instrument to tide over severed employees until they can secure new positions, as well as to reward workers for faithful service when they have to be dismissed because of economic factors. Moreover, the use of dismissal compensation reduces the tendency on the part of companies to furlough workers for long periods during which their support becomes a community problem because they fear to look elsewhere for a job lest they lose their seniority. At the same time, dismissal compensation permits a company to employ some younger men at a later date if employment should turn upward.

GUARANTEED EMPLOYMENT AND ANNUAL WAGES

Guaranteed employment plans provide that over the course of a given period, usually a payroll year, the employer will guarantee a certain number of weeks' work for a given number of employees. Other plans are more limited: for example, requiring the employer to retain for a week or a month all employees hired at the beginning of the week or the month. In any case, the objective is the same: to secure the maximum amount of steady employment for the union members. Guaranteed employment plans have been tried in a number of plants and industries, including the Cleveland ladies' garment industry, the Seaboard Air Line Railway, and the Delaware and Hudson Railroad.[30]

In recent years, interest in guaranteed employment has been exceeded by discussion of annual wage plans. The basic difference between the two is that annual wage, or other wage, guarantees involve guarantee of income, whereas guaranteed work does not. The most publicized annual wage plans have been those of the Procter and Gamble Soap company, the Hormel Packing company, and the Nunn-Bush Shoe concern.

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[29] For a thorough analysis of this subject, see Everett D. Hawkins, *Dismissal Compensation* (Princeton, Princeton University Press, 1938).

[30] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 126–129; American Management Association, *Annual Wages and Employment Stabilization Techniques*, Research Report No. 8 (New York, American Management Association, 1945).

A general analysis of the problems of guaranteed wages from the industry point of view is contained in Chapter 5. The most important factor from the union point of view is that wage or employment guarantees tend to divide the union into two groups—those covered and those excluded. For no plan covers all employees in the bargaining unit. Usually, the guarantees are reserved for those who have been with the company a specified length of time, e.g., one year, or for a certain percentage of payroll. If the employees who are not covered by the guarantee believe that their chances for future inclusion are good, they are not likely to be too dissatisfied. Since, however, the chance of coverage for the excluded workers depends upon labor turnover, and since the existence of guarantees usually reduces labor turnover to the absolute minimum, the opportunities for excluded workers to come under the plan are not likely to be great except possibly in periods of expanding employment. This fact is likely to make a sizable group within the union hostile to guaranteed plans and to the union officers who sponsor them or else it may compel union officials to attempt to secure employment guarantees which the employer cannot live up to in depressed times. For whatever guarantee is agreed upon in collective bargaining, it is of value only as long as the employer is financially able to meet his obligations.[31]

MAKE-WORK POLICIES

The widespread insecurity of the worker in modern industry, which was tremendously accentuated by the experiences of the depression of the 1930's, has led employees to "make work" by adopting a variety of policies. These make-work or "featherbedding" arrangements often exist among unorganized as well as organized employees,[32] but the entrance of a union can have the effect of formalizing and strengthening them.[33]

Restrictions on Output

Restrictions on output, directly or indirectly, are the most common make-work practice. Formal restrictions are not very common in industry, although reference to them sometimes occurs in union literature or even in collective bargaining contracts. In most cases, the restriction is based on a tacit understanding of labor. Restrictions, both formal and informal, are more usual when wage payment is by the piece than when it is by the hour or day.[34] The reason is that workers are afraid that a "world-beater" among them will earn so much that he will force the more average employees either to quit or to work at an exhausting pace. The use of star performers as pacesetters has been common enough in industry to give credence to this fear.

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[31] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 129.

[32] S. B. Mathewson, *Restriction of Output Among Unorganized Employees* (New York, Viking Press, 1931); F. J. Roethlisburger and W. J. Dickson, *Management and the Worker* (Cambridge, Harvard University Press, 1939).

[33] As noted, this chapter is based primarily on S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941).

Restrictions on output and other forms of make-work policies are also the result of fear on the part of employees that they will work themselves out of a job. Most employees believe that there is a given amount of labor and that by stretching it out each employee will receive more. The economic fallacies of this belief have been explained on numerous occasions and will be discussed in Chapter 17.[35] In industries such as building construction however, the individual worker may stretch out his immediate employment by slowing up on the job, even though the long-run effect of the slowdown may well be less work because of resultant high costs.

Limits set on output are usually enforced by social pressure rather than by union rule. True, sometimes men have been fined for getting out too much work. More often, whether the plant is unionized or not, the speed of work deemed appropriate by the majority is enforced by their refusing to engage in social relationships with other workers who "speed up." The latter, finding themselves outcasts from the groups to which they belong, are likely to conform to the "social output" very quickly.

It should be noted that limits on output which are agreed to under piecework systems are often very reasonable when initiated, but frequently become obsolete as machinery improves and worker efficiency rises. They are reasonable at their inception because the workers like the high earnings which often result from piecework. If, however, they become too obsolete so that earnings of a large group are affected adversely, a revolt of the rank and file may force them upward. Otherwise, if a union is in the picture, the result may be either loss of membership in the union, or inability to organize non-union shops because the lack of restrictions in the latter establishments can permit non-union employee earnings to rise above union earnings. Since the national union leadership is likely to be more interested in organizing non-union shops than is local union leadership, severe restrictions on output favored by locals are often vigorously opposed by national unions.

Restrictions on output may be effected by indirect methods. Thus instead of setting a quota, the same results may be achieved by retarding speed of performance. The International Longshoremen's and Warehousemen's Union (CIO) regulates the size of the sling load which is used to load ships; the Painters' union has forbidden its members to use paint brushes larger than a specific width; and the Carpenters' union rarely sanctions the use of portable electric saws and drills which one of the writers has found by personal experience to be not only considerably faster than hand tools, but far more accurate as well.

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[34] Methods of wage payment are discussed in the following chapter.

[35] See pp. 428–429.

Restrictions on output may also be achieved by excessive safety or quality controls. When the New York bus drivers want to slow down, they observe all safety regulations. The result is to put buses an average of 30 minutes behind schedule on moderately long runs. The various building trade unions have adopted a variety of rules on quality and safety performance which often go beyond the requirements of appropriate authorities or of fire insurance underwriters. The object is quite apparently make-work, but in addition these regulations serve as a fertile source of graft for unscrupulous business agents of building trade unions. Many instances have occurred in which the business agent will demand that the employer pay a fine or bribe so that construction work will not be interrupted by a strike called because of a "rule" infraction.[36]

Unnecessary Work and Unnecessary Men

Some of the most obvious featherbedding results from union requirements that unnecessary work be done, that work be done by time-consuming methods, or that unnecessary men be hired. The building, amusement, and railroad industries are characterized by a good deal of such union policies. For example, it is standard practice for the plumbers' union to require that pipes be threaded on the job even though it is far more economical to do threading in the shop. A colleague of one of the writers who was building a home noticed some threaded ends of pipe lying on the ground. The plumbers had found their pipe threaded when it arrived for installation. Following customary practice, they cut off the threads and rethreaded it on the job—at $3.00 per hour. Similar policies are frequently followed by the plasterers, electricians, and carpenters in the building trades and by the stagehands in the amusement industry. And the International Typographical Union "requires that when plates or paper mache matrices are exchanged, as they frequently are, the matter be reset, read and corrected within a stipulated period, and that proof be submitted to the union chairman in the office."[37]

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[36] See R. E. Montgomery, "Graft in the Building Trades," in *Industrial Relations in the Chicago Building Trades* (Chicago, University of Chicago Press, 1927), chap. 11.

[37] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 181.

The employment of unneeded personnel is most closely associated with the activities of James Caesar Petrillo, president of the American Federation of Musicians. The contracts of this organization have required the employment of musicians in radio stations, theaters, and elsewhere when no artistic commercial need existed. The New York building trades created an international scandal in 1939 when they forced foreign countries, who had brought their own labor to erect their exhibitions at the New York World's Fair, to pay New York mechanics to stand by—even to the extent of requiring double time to the idle, unnecessary American workers who stood by when foreign craftsmen worked overtime. By refusing to permit workers to do jobs outside their narrowly defined duties, both railway and building unions require the employment of unnecessary personnel. And the Brotherhood of Locomotive Firemen and Enginemen has attempted with considerable success to force the employment of an extra man on Diesel engines.

Make-Work Legislation

A number of laws have been passed at the prodding of special interest groups which are ostensibly in the interests of the consumer, but actually go considerably beyond that. In this category are a number of building codes and railway "safety" legislation. The former frequently discriminate against prefabricated materials even where such methods are equal to, or in many cases superior to, on-the-job construction. In addition, particularly in plumbing and electrical work, building codes stipulate that certain jobs be done by licensed mechanics and include therein work which is obviously unskilled and can be performed with no danger by the average home owner. These codes carry on the policy of many building unions of attempting to secure as much work as possible for their crafts, even though much of it is easily performed by unskilled or semiskilled labor.

The railroad unions have expended much effort to secure "full crew" and train length limit legislation. The former requires a minimum crew on all trains, ostensibly in the interests of safety, but quite clearly often results in the employment of unneeded personnel. The latter limits the number of cars which can be attached to a single train. In a series of court tests, a number of train length laws have been declared unconstitutional.

Comments on Make-Work

Make-work rules are a wasteful method of dealing with the problems of unemployment and insecurity since they add to the cost of production, and as a result, probably often curtail total employment. In many cases, make-work provisions so raise costs that wages are lower than they might otherwise be. And excessive use of make-work rules may seriously limit a union's effectiveness, for it may cause internal dissension between those favoring limits and those favoring higher earnings. Also, as already noted, limits on work may permit non-union earnings to exceed union ones, and thus prevent a union from organizing non-union workers who are not interested in decreased earnings.

Make-work rules do not eliminate the intermittent employment which is found in the building and amusement industries where their use is common, nor have make-work rules halted the secular decline in railway employment. Actually, by attracting more labor to an industry than is needed, make-work rules aggravate these evils.

Make-work policies present a difficult problem in terms of public policy. The approach attempted by the Taft-Hartley Act and a few similar state laws is one method. Section 8 (b) (6) of the Taft-Hartley Act makes it an unfair labor practice for a union "to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value in the nature of an exaction, for services which are not performed or not to be performed." This clause outlaws "stand-by" featherbedding which requires payment to personnel merely to stand by while others work. Beyond that, however, its application is doubtful. Nor is it likely that problems of make-work can or should be solved by legislation. What agency, for example, is to pass judgment on how fast a man should work, or how many men should be required to operate a given machine, or at exactly what point a job requires a skilled craftsman and at what point little skill is necessary?

To be sure, extreme cases are easy to detect. Legislation, however, would have to leave extraordinary discretion to a government bureau. To do its job, that bureau would be compelled to pass judgment on a variety of labor relations matters and would thus end up regulating industrial relations to a degree which neither labor, business, nor the freedom-loving public would find desirable.

There is another aspect to make-work rules and public policy which cannot be ignored. That is, restriction of output on the part of labor organizations is only one type of such restriction in the economy. Many businessmen restrict output in order to keep prices high. In 1948, the American steel industry was widely accused of failing to expand its capacity because it feared that demand would eventually decline. Numerous professional societies have urged enactment of legislation which would permit only licensed personnel to pursue a profession, but the definition of the profession often goes beyond the need for professional competence. In New Jersey, the State Bar Association attempted unsuccessfully to have the negotiation of labor management contracts declared the practice of law. If the attempt had succeeded, non-members of the state bar would have been unable to compete with lawyers for the right to aid labor and management unless no compensation was accepted. Farmers continually restrict production, plow under crops and let fruit rot on the trees in order to bolster prices. Should labor restrictions be regulated and others left alone? Equality of treatment under the law would seem to require that all groups be equally affected or unaffected by legislation.

Technological Change

The introduction of new machinery or methods may be beneficial to union members by easing the physical strains or improving the safety of the job or by bringing in more work and hence increasing employment. In some cases, unions have agitated for technological improvements. Thus the Brotherhood of Locomotive Firemen and Enginemen went to the Interstate Commerce Commission in order to force railroads to adopt the automatic stoker for coal-burning engines. Light, faster trucks have created more jobs for truck drivers, and larger, longer airplanes have made more jobs for pilots. There are many other such examples.

On the other hand, many technological developments affect workers adversely, at least immediately. They make the job more hazardous or more difficult, or they may reduce employment in particular plants. For example, paint spraying can cause lead poisoning; the substitution of the one-man street car for two-man operation certainly makes the job of the operator more difficult; and the introduction of the continuous strip mill resulted in the abandonment of several hand rolled steel mills.

Obstruction

The adverse effects of technological change have led a number of unions at various times to oppose actively shifts in methods of production. Opposition to technological change takes several forms. The most common is refusal to work with new machines. Workers can also reduce output, demand prohibitive pay, or even ask legislation in their fights against change.

Few industrial unions adopt obstruction policies, although occasionally some of their locals may do so. The reason is that the average technological development does not affect all members of an industrial union and therefore it cannot go all out for the interests of a minority of its members. On the other hand, all members of a craft union are likely to be directly affected by any alteration in the methods of production.

In some cases, obstruction has been quite successful. This is particularly true in the building trades. Thus the plumbers have prevented the use of pipe-threading machines; the carpenters still use handsaws and drills instead of portable power equipment; the painters have kept the paint spray off most union jobs; and nearly all the building trades' unions have restricted the amount of work which can be prefabricated or milled in the shop where heavy machinery can be utilized.

The success of the building trades' unions in opposing technological development is attributable to several factors unique to that industry.

> One reason is that most of the changes opposed by these unions affect only a small part of the work done by the skilled craftsmen. The employer needs these men for other parts of the work. A second reason is that no single restriction imposed by these unions on labor-saving methods greatly increases the *total* labor cost of building. The percentage increase in the cost of performing *the particular operation* may be large, but if the operation is only a small part of the work, the effect upon total cost is small. This means that employers cannot afford to incur large expenses in order to prevent the restriction. Unfortunately, in the course of time a number of restrictions, each insisted upon and accepted because it was not important, may make an appreciable difference in cost. A third reason why building trades unions have been successful in their opposition to labor-saving methods is the fact that the areas of competition are so small that the unions are able to impose restrictions upon all employers in the area. Hence the competition of non-union employees does not compel the unions to give up their prohibitions upon labor-saving methods.[38]

In most other industries, however, opposition to technological change has been unsuccessful. Usually, the union finds that it must adapt itself to the change if it is to survive. The failure to do so is likely to encourage the rise of non-union plants which use the newer methods. If the latter are really superior, the non-union plants will be able to produce at less cost and thus take business away from, and reduce employment in, the union plants. At this point the union may be forced to choose between its continued existence and its opposition policy.

When a crisis is reached in a union over whether a policy of opposition should be abandoned, a divergency of interests may develop between the rank and file and the national union leadership. The former are primarily concerned with extending their skills and working life; the latter with preserving the union. The rank and file may believe that a continuation of a policy of opposition may prevent the use of techniques long enough to be worthwhile, but the net result may be the destruction of the union. The members of the National Window Glass Workers' Union voted to continue a strong policy of obstruction which led to the organization's demise in 1928; and the members of the Cigarmakers' International Union of America almost killed off their organization by repeatedly refusing to accept their officers' recommendation that they work on newly developed machines and admit workers who were already employed on these operations.[39] In the same manner, a number of local unions have continued obstructionist policies although the national union has opposed them.

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[38] S. H. Slichter, *Union Policies and Industrial Managemem* (Washington, Brookings Institution, 1941), p. 214.

[39] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 216–223.

Worker opposition to technological change dates back at least to the industrial revolution, when the textile workers of Lancashire smashed newly installed machines. "The appearance of something new, whether in the form of a new labor-saving device, a new incentive system, a new kind of supervision, or a new process, seems to sound an alert among men at work; they mount guard, as it were, suspicious in advance that the change bodes them no good. The problem that emerges becomes particularly baffling when time and time again it appears immaterial whether an innovation affects the workers adversely or not. Indeed, even when it promises them substantial benefit, they still may pull and haul and balk."[40]

Union policies of obstruction are basically reflections of workers' fears that changes will affect them adversely. The union acts to solidify the obstruction or to fight it, but not to create it. Moreover, in many instances, union obstruction has served a good purpose. Opposition of the street car motormen to the one-man car led to the invention of the safety door-brake; and the granite cutters performed a public service by restricting the use of the hand surfacer, "an extreme health hazard."[41]

Perhaps, even more important than forcing improvements in machines, union obstruction policies have compelled industry to consider human costs in introducing new methods. Abandoning a plant or eliminating a skill causes tremendous hardship to those affected. By slowing the process, or forcing management to make concessions, union obstruction to technological change has reduced the number of employees rendered temporarily useless by progress.

On the other hand are cases, particularly in the building trades, where union obstruction policies have increased consumer costs without apparent benefit to the community.

POLICY OF COMPETITION

If a union finds that a policy of obstruction is failing (usually because non-union shops are utilizing the new technique and causing unemployment in the union shops), it may attempt to compete with the new method. This takes the form of wage or working rule concessions to employers who retain the old techniques, or in rare instances, of the formation of coöperatives by displaced employees who seek to maintain old methods of operation.

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[40] B. M. Selekman, *Labor Relations and Human Relations* (New York, McGraw-Hill Book Company, 1947), p. 111.

[41] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 208.

Essentially the policy of competition is a short-run device adopted for the purpose of slowing the advancement of new techniques and preserving the working lives of employees who would otherwise be displaced. If the new technique is sufficiently superior, wage and working rule concessions are not likely to halt its introduction. Nor can coöperative plants producing by less efficient methods hope to compete permanently with more modern plants.

A policy of competition, nevertheless, is not without social benefit. By providing temporary employment for workers who might otherwise be unemployed, it mitigates the hardships of change. Moreover, as in the case of obstruction policies, competition forces improvement in new machines, which are often crude when first introduced, and therefore, a policy of competition can result in the reduction of costs and of prices.

CONTROL

In most cases, opposition to technological advancement and union attempts to compete with new techniques are temporary measures. Sooner or later the union members must decide whether they want the union to survive. If they do, they must work out a *modus vivendi* with management which permits use of the new invention. In short, the union must adopt a policy which gives it some control over working conditions which develop under the new technique.

The policy of control may take many forms. When linotype machines were first introduced, the International Typographical Union successfully insisted that compositors be trained to operate the new machines. In the steel industry, the union has insisted that some of the benefits of machinery go directly to the workers. This has been used as a talking point in wage negotiations, and also to implement union arguments that men laid off as a result of new techniques should be given the first opportunity for new job openings. In other cases, unions have negotiated dismissal compensation for men laid off. This tends to lessen rank and file opposition to a policy of control. A final method of control is for the union to negotiate high wage rates which slow down the introduction of the new technique with the result that the effect on the working force is lessened.

The willingness of a union to adopt a policy of control depends on a variety of factors. Industrial unions are more likely to favor control policies than are craft unions because a new technique often helps one part of the industrial union membership even though it hurts another part. Moreover, craft unions may be unwilling, or unable to organize employees operating the new machines, or their members may be unwilling to learn new techniques or to work on new machines. We already noted that refusal to operate the new machines or to admit the workers that did, led to the dissolution of the Window Glass Workers' Union and the near collapse of the Cigarmakers' International Union of America.

Of special importance also is the existing state of product competition. The Granite Cutters accepted saws and surfacing machines, if operated by union members, as an aid in competing with the softer stone market. The street railwaymen, after some obstruction, adopted the control technique for the one-man car and the bus in order to meet private automobile competition. Pottery workers have accepted various machines as aids against foreign and glassware competition; and the list could be extended.[42]

The competition of non-union plants has been very important. The American Federation of Hosiery Workers have not only accepted, but have actually promoted the introduction of new machinery because of the non-union competition in the South. The Textile Workers Union have a similar problem in the non-union cotton mills and also have pursued a policy of control.

The vast number of technological improvements which have been introduced and their initial ill effect on workers raises the question of why more unions did not adopt policies of obstruction rather than of control. The main reason appears to be that most inventions are introduced in times of prosperity and full employment, and indeed contribute to the prosperity as will be fully explained in Chapter 16. In such times, reëmployment of displaced men is more easily possible, and opposition to new techniques is consequently lessened.

Union-Management Coöperation

Unions and employers have coöperated at various times for a number of objectives. "Union-management coöperation," however, has developed a technical meaning: "joint action to reduce the unit cost of production."[43] Industrial peace is a prerequisite for such coöperation, but the mere existence of peace is no indication of a coöperative program.

Union-management coöperation generally takes the form of joint meetings of labor and management (including foremen) production committees which examine suggestions and ideas for reducing costs by making operations more efficient. Since workers often possess considerable knowledge of the details of their jobs, some coöperation plans have had very significant and practical results. Customarily, agreements for union-management coöperation plans provide some protection (dismissal compensation, or rehiring at first opportunity) of anyone dismissed as a result of economies resulting from the coöperation.

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[42] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 9; and Harry Ober, *Trade-Union Policy and Technological Change*, Report No. L-8 (Philadelphia, WPA National Research Project, 1940).

[43] Joseph Shister, "Union-Management Coöperation: An Analysis," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 87. This section is based primarily on Dr. Shister's analysis.

Union-management coöperation schemes differ from "suggestion systems" in that the latter provide for no union representation, but are merely a means whereby individual employees may submit suggestions on production problems to management and, usually, receive cash awards if the suggestions are adopted.

Causes of Coöperation

In all but a few cases, union-management coöperation has developed in plants in which the prosperity of the company and the jobs of workers were threatened by competition from union plants (hosiery, clothing, printing), by cyclical fluctuations (electricians, steel), or by secular employment declines (railroads). The exceptions occurred mainly under patriotic impulse during World War II,[44] or because of the belief on the part of a few union and management officials that such coöperation is a good thing.[45]

Adverse economic conditions do not necessarily guarantee the adoption of a coöperation program. Various other elements enter the picture. The United Mine Workers have never sought to coöperate despite the competition of non-union mines in the 1920's or of competitive fuels ever since World War I, apparently because the primary objective of the UMW leadership is high wages for those still employed rather than maintenance of high employment. Communist-led unions have opposed such "capitalistic collaboration" as coöperation except under stress conditions —e.g., when they regarded it as necessary to insure delivery of war material to Russian armies during World War II. In some plants, workers are so wary of managerial intentions that it would be political suicide for union leadership to urge adoption of coöperative programs. In others, union members and/or leaders have failed to appreciate either the importance of threat to their jobs or the potential amelioration which union-management coöperation might effect.

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[44] The U. S. War Production Board sponsored "production committees" which had this function.

[45] See J. Shister, "Union-Management Coöperation: An Analysis," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 87, note 1, for reference to such cases. In a recently published monograph, Dr. Ernest Dale finds much more evidence of union-management coöperation. (Ernest Dale: *Greater Productivity Through Labor-management Cooperation*, Research Report 14, New York, American Management Association, 1949.) Dr. Dale, however, defines such coöperation much more broadly than it is defined here, e.g. to include coöperative safety programs, and, in the main, this accounts for the greater number of programs which he finds in existence.

In many instances, union-management cöoperation is rejected by management as an infringement on managerial prerogatives even where unions are willing to adopt such a program.[46] General Motors is an example. It "has opposed joint union-management responsibilities of all kinds . . . during the war [World War II] General Motors refused to go along with the government-sponsored plan for establishment of plant union-management 'production committees.' Such joint committees did operate in a few of its plants, but their actions were restricted to slogan campaigns and other trivial matters—even these were frowned on by the top officials of the corporation."[47] If General Motors should come upon hard times, few persons would predict a change in its policy of whole-hearted opposition to joint union-management functions.

EXTENT AND FUTURE OF UNION-MANAGEMENT COÖPERATION

Union-management coöperation has never been widely existent, and the future does not appear to hold great promise for its extension. It is likely to continue in only a handful of plants. Moreover, in plants where it has been tried, it appears to be successful for only a short period. Then interest and results fall off. As in many walks of life, adversity brings labor and management together, but prosperity does not nurture coöperation. This is especially unfortunate since, by increasing productivity through lowering unit costs, union-management coöperation could raise real wages during prosperity. It is thus a potential weapon against inflation. Nevertheless, there is little indication in industrial relations today that this potential will become a significant actuality.

Industrial Warfare

To many Americans, the strike epitomizes the union. Headlines are made in industrial disputes. They are the sensational aspects of union policies and managerial counterpolicies. Yet strikes are surprisingly few in comparison either to man-days worked or the number of collective agreements negotiated. (See Table 14.) For example, the average annual number of man-days lost in the United States because of strikes during 1935–39 was 16,900,000 or 0.27 per cent of the total annual estimated working time. In 1946, the worst strike year in our history, total man-days lost were 116,000,000, or 1.43 per cent of the annual estimated working time.[48] Almost every hour while these strikes occurred, a collective agreement was peacefully negotiated by a union and a company.

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[46] See Chapter 8 for a discussion of managerial prerogatives.

[47] F. H. Harbison and Robert Dubin, *Patterns of Union-Management Relations* (Chicago, Science Research Associates, 1947), p. 48.

[48] Data published in Table E, *Monthly Labor Review*, each month.

Table 14

STRIKES AND LOCKOUTS IN THE UNITED STATES, SELECTED YEARS 1917–1947*

Year	*Number of Disputes*	*Number of Workers Involved (Thousands)*	*Per Cent of Total Employed Involved*	*Man-days Idle (Million Days)*	*Per Cent of Working Time Lost*
1917	4450	1227	6.3	(a)	(a)
1919	3630	4160	20.8	(a)	(a)
1921	2385	1099	6.4	(a)	(a)
1925	1301	428	2.0	(a)	(a)
1929	921	289	1.2	5.4	.07
1933	1695	1168	6.3	16.9	.36
1937	4740	1860	7.2	28.4	.43
1941	4288	2363	8.4	23.0	.32
1944	4956	2116	7.0	8.7	.09
1946	4985	4600	14.5	116.0	1.43
1947	3693	2170	3.7	34.6	.41

* Source: *Monthly Labor Review* (May 1947), p. 782; (June 1948), p. 706.
[a] Data unavailable.

Despite their relative numerical unimportance, strikes have a vital effect on the economy. A strike in a key motor parts plant can and has shut down a large segment of the automobile industry which depends upon that plant to supply certain parts. A strike of a few tugboat operators almost caused New York City to cease operating. These are matters of vital public concern and are discussed as such in Part VI. These problems also raise the question of why strikes arise out of labor-management disputes.

There have been a number of attempts to state a theory of industrial disputes in terms of pure economic calculation. The employer's "concession curve" is plotted against the union's "resistance curve" and the expected length of strike and the wage rate form the axes of the diagram.[49] The assumption is that pure economic calculation is utilized by the parties to determine whether a strike would be advisable. If the parties correctly determine each other's propensity to resist and to concede at given wage rates and strike length periods, then, according to this analysis, they will come to an agreement without a strike at a point where the employer's concession curve bisects the union's resistance curve.

The main fault with this analysis is that it does not go far enough. The decision whether to strike for higher wages or to accept a peaceful settlement at a lower rate does in fact depend to a considerable extent on the parties' estimates of the relative resistance or concessions which they can expect of each other. But this fails to take into account the fact that the union is not a pure economic unit; rather the union is a body politic. In numerous ways this complicates the issue.

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[49] J. R. Hicks, *The Theory of Wages* (London, Macmillan and Company, 1932), chap. 7.

Despite the wide degree of provisions in union constitutions for rank and file activity in negotiations, the function of the leadership is most important. Except in cases of revolt, which usually means that the leadership has lost the confidence of the rank and file, the latter are likely to accept the recommendations of the leadership. In making recommendations whether or not to strike, union leaders must take a number of non-economic factors into consideration. One is the intensity of rank and file pressure. Many a union leader, after arguing against it, has reluctantly given the strike call because pressure from a group of the rank and file forced his hand. Here the choice of the leader may be to fight against what he believes to be a unwise act, or to go along with the group. But whatever he decides, it is unlikely that the decision is based primarily on economics. It may, for example, be decided on pure union politics. Some strike settlements are made on the basis of what is best calculated to retain or to acquire power in the face of rival leadership.

> Rival leadership may threaten from inside or outside the organization. Some leaders, such as the late Sidney Hillman (of the Amalgamated Clothing Workers) . . . enjoy the virtually undivided loyalty of the membership, and command a faithful and disciplined political machine. Others, such as Walter Reuther [of the United Automobile Workers] must contend with bitter factionalism. Since the opposition will seize upon any opportunity to deprecate their effectiveness, they must take care that a wage settlement is not vulnerable to partisan attack. Some unions, such as the Teamsters, . . . occupy a secure territory. . . . Others, such as the three unions in the meatpacking industry, are constantly required to beat back each other's forces of invasion. Any wage settlement is subjected to scorn and ridicule in the periodicals and pamphlets of the opposing unions; the advantages of the settlement are minimized; the leaders are excoriated as piecards, Commies, or company stooges; the membership is commiserated for having been sold down the river. In arriving at a settlement, it is obviously important to guard against these accusations, and to ensure that they will not be persuasive to the rank and file.[50]

The non-economic factor in strikes is apparent in other ways. Sometimes a strike involves the very existence of a union in the face of employer or rival union actions. Jurisdictional strikes (contests between two unions over whose members shall do a particular piece of work), rival unions' disputes (contests over which union shall represent a given group of workers), and boycotts (refusal to handle goods, work with certain materials, etc.)[51] are often strictly interunion disputes not even involving employers. Yet, such disputes may involve economic considerations: for example, their outcome can determine which group of employees secures certain employment. They may also involve political considerations: for example, which union secures the right to represent the disputed workers and hence which union leader adds to his prestige, power, and to the bargaining power of his organization and constituents. The epic jurisdictional fight in Hollywood's movie studios, which has occurred with increasingly bitter intensity in recent years, assuredly involves all these considerations.

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[50] A. M. Ross, "The Trade Union as a Wage Fixing Institution," *American Economic Review*, **37**:585 (1947).

Work stoppages may also result from non-economic preferences of employers. The Republic Steel Corporation spent an estimated 12 million dollars in a vain attempt to prevent the United Steelworkers from organizing its plants. This money was sheer waste, as the United States Steel Corporation demonstrated by recognizing the union without a stoppage or the purchase of tear gas and machine guns or the loss of production, all of which gained Republic nothing. The willingness of employers to accept strikes rather than violate "principles" cannot be measured on an economic calculation chart.

Although strikes have occasionally been called as a result of "hotheadedness" on the part of union officials, or as desperate attempts of union leaders to bolster their loosening grip on a union, or as a result of employer devotion to "principles" (one of which may require wrecking a union), it would be a grave error to suppose that only such selfishness is involved. The strike or lockout may climax a series of long-standing worker grievances or employer annoyance at high-handed union tactics. It may be caused by bad working conditions, by wages lower than those paid in the area, by an unfortunate comedy of misunderstandings, by a clash of personalities between union and company negotiators. There are as many causes of strikes as there are opportunities for men to disagree. And so long as men are free to disagree, there will be strikes.

Whatever the cause of strikes, it is rarely possible to compute their costs in terms of lost wages or production. Often, time lost by strikes is made up during the year. Most coal strikes, for example, have not caused miners to lose more working time during an average year than they would otherwise lose from overcapacity in the industry. The average number of days worked per miner per year remains approximately the same in heavy strike years as in years of labor peace. Although this is an extreme case, the situation is somewhat comparable in all industries which produce a storable or postponable product, i.e., a product, which if not produced and sold today, can nonetheless be produced and sold tomorrow.

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[51] The importance of these strikes and methods of their control will be discussed in Part VI.

The cost of strikes is higher and may be more precisely, although not completely accurately, figured in industries which produce a perishable or non-reproducible product or service. The amusement trades, passenger transportation, and newspaper publishing are examples. Work or business lost by a motion picture theater and its employees cannot be regained, because people do not wait for a strike to terminate before seeking amusement. Likewise, a newspaper which does not publish today can rarely make up the loss of sales and advertising. And potential passengers do not wait to take trips until management and labor settle their differences. The high cost of strikes in these industries has led to the development of voluntary and governmental machinery to aid in their settlement, but even so, strikes do occur.

7

Wage Determination

Despite the importance of other issues in labor-management negotiations, wages remain the most vital matter at stake. Upon the outcome of wage negotiations depend employer costs and worker income. In this chapter, we shall consider some problems and policies of union-management wage determination. The economics of wage determination will be dealt with in Chapters 15–19.

Methods of Wage Payment

PAYMENT BY TIME

A majority of American workers are paid by the hour, day, week, or month—i.e., by time. In many instances no other method is possible since calculation of individual or group output is often neither feasible nor practical. As a method of payment, it is open to the criticism that output and earnings are not directly related—that there is no "incentive" to produce. Such criticism has its valid side, but piecework and incentive wage methods have distinct limitations. They become less applicable when mechanical devices supplant employee effort as the dominant factor in production.

PAYMENT BY PIECE—INCENTIVE WAGES

Piecework and other forms of incentives relate wages and output so that earnings fluctuate more or less in accordance with actual output, thus providing an immediate financial stimulus to workers to increase their efforts and output. Approximately 30 per cent of the plant workers in manufacturing industries studied by the United States Bureau of Labor Statistics in 1945 and 1946 were on an incentive basis. "Among nonmanufacturing industries, about one-third of the employees of clothing stores and department stores[1] and nearly two-fifths of those in automobile repair shops were on incentive. About one-fifth of the underground bituminous coal miners were paid incentive rates, but none of the surface soft coal mines studied provided incentive pay. Few incentive workers were reported in the electric light and power and warehousing industries."[2]

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[1] These are undoubtedly sales clerks.

[2] J. M. Sherman, "Incentive Pay in American Industry, 1945–46," *Monthly Labor Review*, **65**:535–537 (1947). The Bureau of Labor Statistics believed that the manu-

The principal types of incentives and their main advantages and disadvantages are set forth below.

1. *Piecework:* Individual payment by the piece, pound, part, etc. Applicable only to relatively simple operations, it provides no extra bonus for above average production beyond the production rate. It is simple from the standpoint of calculation of earnings, requires only minimum bookkeeping costs, and has a direct relation to output which employees can readily perceive.

2. *Group Incentives:* Bonus payments made on basis of group output. It is applicable only to closely related operations, especially serial operations where individual operations are closely linked. Tends to build cliques among groups, which is often disruptive of good relations. It has worked reasonably well in radio tube industry which fits all requirements for its successful operation.

3. *Plant-Wide Incentives:* Bonus which covers all employees. An example was the wartime plan of the Grumman Aircraft Company of New York. It used, as a base factor, pounds produced during the second quarter of 1943 divided by total hours worked. A bonus of one per cent was paid for a two per cent increase in production with full participation for all with annual earnings under $5,000; participation on a graduated basis for those earning $5,000–7,500; and no participation for those earning in excess of $7,500. Such a plan keeps all workers interested in production, but the individual output relation to bonus earnings is not easily made explicit. Moreover, in most plants, individual effort of many workers, e.g., maintenance men, has no relation to output. They can loaf and reap the bonus.

4. *Measured Day Work:* Essentially an evaluated rate range with advancement from minimum to maximum based on merit rating factors, e.g. quality of work, quantity of work, versatility, dependability, etc. To keep current, it requires frequent readjustments and much bookkeeping cost. The many intangibles inherent in a rating procedure can be the subject of frequent and acrimonious disputes which often more than counterbalance any gains in production.

5. *Standard Hour Plans:* These are the most common incentive systems. Some are comparable to piecework with a guaranteed base pay. Others are stated in terms of earned hours instead of pieces produced. For example, a piecework rate of 10 cents per piece multiplied by a 5 piece per hour standard equals 50 cents. One standard hour of work is thus 50 cents if 5 pieces are produced. Such plans as Bedaux, Emerson, Wennerlund, Halsey, and Gantt fall into this category, although they differ in details.

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facturing industry data are a representative sample, but that the non-manufacturing data are not.

Standard hour plans have the advantage of providing incentives with guaranteed base earnings. Their identification in workers' minds with "speed-up" tactics, their numerous industrial operations, and their complex figuring systems which confuse employees and heighten bookkeeping costs, are their main disadvantages.

In general, incentive systems work out best in industries where labor cost is a large percentage of total cost, where competition is keen, and where the output of the individual is easily discernible. Clothing and textiles are good examples of industries which meet these requirements.

Incentive plans are not practical where emphasis is on quality rather than quantity; where individual output cannot be defined with precision; and where mechanical contrivances control employees' speed and effort. Automobile assembling, chemical plants, and tool and die jobbing shops are among the industries in which these conditions generally apply.

Union Policies and Incentive Wage Methods

Popular writers have frequently pictured all unions as bitterly opposed to piecework and incentive plans. Despite considerable union opposition to incentives, this is far from correct. Union policy toward incentives has always varied considerably from industry to industry. In 1908, for example, a study of 117 unions showed that piecework was willingly accepted by 33 unions of the 59 which operated in industries where piecework was frequently utilized; and of the 26 which opposed piecework only 8 operated in industries where payment by the piece was the prevailing system of paying.[3]

Modern studies of union policy toward incentives have also found a wide variety of opinion. Moreover within any given national union, there is wide variation. Thus, the United Automobile Workers is officially opposed to incentive plans, but many of its locals favor it. On the other hand, the United Electrical, Radio and Machine Workers has never taken a stand against incentives, but some of its locals have done so.[4]

Traditionally, unions have been more favorably disposed toward straight piecework than toward wage systems which provide for bonuses of one sort or another. This dates from the time when the incentive systems were utilized as a means of reducing wage rates. For example, it was not uncommon, under the guise of scientific management, to provide a negative bonus for increased production. Thus, if a worker was paid a base rate of 50 cents an hour for 10 pieces, he would receive 54 cents for

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[3] D. A. McCabe, *The Standard Rate in American Trade Unions* (Baltimore, Johns Hopkins Press, 1912), pp. 187–199.

[4] See S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 10 and 11; V. D. Kennedy, *Union Policies and Incentive Wage Methods* (New York, Columbia University Press, 1945).

11 pieces; 58 cents for 12 pieces, 62 cents for 13 pieces, etc. Although the more he produced the more he received, the fact remained that the more he produced the less was his rate per piece. One result of such incentives is a rider that has been attached to Army, Navy, and Post Office appropriation bills since 1914, at the request of the AFL Metal Trades Department, which proscribes the use of time study methods or incentive systems in establishments run by these departments.

In more modern times, incentive systems have been made fairer. Thus today a piece rate of 50 cents for 10 pieces might provide a payment of 56 cents for 11 pieces; 63 cents for 12 pieces; 70 cents for 13 pieces, etc. This would mean not only extra reward but also a higher rate per piece for increased production. Certainly, no union would countenance any rate cutting under an incentive system, but today unions are not likely to be as opposed to incentives as formerly, or to prefer straight piecework over incentives to such a marked degree.

In general, for a union to favor incentive or piecework plans two primary conditions must be met: first, the unit of output must be definable with precision; and second, conditions of work must be maintainable with substantial uniformity over periods of time. There are some exceptions to these general rules. For example, the United Mine Workers has never opposed payment by the piece, which is quite general in the bituminous industry, despite the fact that conditions of work vary tremendously in the mines over short periods. The reason appears to be first, that until recently the UMW was faced with a considerable amount of non-union competition. The abandonment of piece rates would have raised the cost of union mines so that most business would have gone non-union. In addition, it is impossible to provide supervision for most mine employees so that piecework is the only method by which it is possible to keep track of individual worker performance in the mines.

Opposition to piecework and incentives is generally absent from industries in which this type of payment has had a long history. Steel is a good example. There is no evidence that the United Steelworkers has made any attempts to alter the basic systems of payment. Philip Murray, president of the United Steelworkers, has written that, where morale is high and a good understanding exists between management and union employees, almost any wage system can be made to work.[5]

We have already noted that the United Mine Workers does not oppose piecework partially because of the long non-union competition in bituminous coal. Non-union competition has historically been an important reason promoting union acceptance of incentives. Before the needle trades were so thoroughly organized, this was one of the important reasons why the needle trades not only did not oppose incentives in piecework, but actually promoted them. In addition the Amalgamated Clothing Workers, which has been as favorably disposed toward piecework as any union, has promoted its installation because only through piecework could the workers in the clothing industry increase earnings without increasing labor costs. If wages in clothing had been pushed up without an increase in production, the net effect would probably have been a decline in employment which would have taken away from the workers what they would have gained in wages.[6]

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[5] Philip Murray and Morris Cooke, *Organized Labor and Production* (New York, Harper and Brothers, 1942), p. 112.

If a trend is toward multi-union collective bargaining on a regional and national basis, union policy toward incentive wage methods is likely to depend upon the adaptability of piecework to the regional and national agreements. In the various branches of the glass industry, in pottery, in stoves, and in hosiery, national and regional collective bargaining has long existed. In all these industries payment is predominately by the piece which permits variation in earnings without variation in rates. Moreover local conditions are taken care of by special local agreements so that piecework in these industries has proved compatible with bargaining on a wide scope.[7]

In sum, unions favor piecework where manual skill and labor costs are extremely important, where non-union competition exists, where the unit of production can be defined with precision, where standards of work are fairly stable and where piecework incentives have worked reasonably satisfactorily over a long period of time. The fact that a national union may oppose piecework officially does not mean that many of its locals will not either accept it or actually prefer it.

INCENTIVES AND COLLECTIVE BARGAINING

The use of incentives involves certain collective bargaining problems which are not otherwise present, and introduces others in aggravated form. An incentive program, if properly administered, can lay the foundation for a sound industrial relations program; but it can also make good industrial relations impossible. An example of the former situation is the system used by the Apex Electrical Manufacturing Company, Cleveland, and the International Association of Machinists, the bargaining representative of its 1300 employees after a strike in 1944. Coöperation between management and labor has brought higher than industry average earnings and full production, has cut labor turnover to a minimum, has virtually eliminated absenteeism, and has left the company untouched by postwar labor strife and unrest.[8] An article praising the incentive at Apex appeared in the IAM journal. Yet the IAM constitution opposes members' working on incentives.

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[6] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 290–291.

[7] See R. A. Lester and E. A. Robie, *Wages under National and Regional Collective Bargaining* (Princeton, Industrial Relations Section, 1946).

On the other hand, incentives can contribute to unlimited industrial strife. So many factors, frequently intangible and unmeasurable, affect a worker's earnings that, unless mutual good will exists, continued bickering is often the result. For example, if a machine breaks down, or materials stop flowing, should the worker receive base pay or average hourly earnings of a previous period? One of the authors vividly recalls a War Labor Board case, for which he was arbitrator, in which there were 27 issues, all involving this one question. Obviously, if good faith had governed the relations between this union and company, the case would never have required adjudication by a third party.

Another problem under incentive wages involves the relation in the plant between the workers on the incentive procedure and the time workers. Few if any plants can place all employees on incentives. Indirect labor, maintenance workers, highly skilled employees and those whose speed is entirely machine controlled, e.g., assembly line operators, must usually remain on time work. As the pay of incentive workers rises, it creates inequalities in relation to time workers. During the war, the authors found instances in which highly skilled diemakers were endeavoring to obtain jobs as semiskilled machine operators because the latter, on incentive work, were paid more! Such inequities cannot be permitted to endure. Yet the only solution is to hold down incentive earnings of superior workers which, of course, negates the whole point of the incentive plan.

These are only a few of the grievances which arise out of piecework. Such grievances stem from two sources. On the one hand is the uncertainty which incentive wages give rise to. "Intrinsically piece work rates introduce anxiety if not always competitive aggressions in contrast to the comparative securities of time rates."[9] These uncertainties arise from the fact that earnings under piecework and incentive systems are affected not only by the worker's efforts, but by a host of other factors (including those already noted) over which he has no control. Hence the pressure on the individual increases because the weekly wage is subject to considerable variation.

A second source of grievances under piecework arises from the fact that employers frequently substitute incentive systems for good management. Under time work, the employer is usually more interested than the worker in keeping machinery and other production mechanisms in first-class condition. Too frequently, however, employers count on the workers to take care of matters under piecework. Workers naturally are very much interested in machine efficiency when it is closely correlated with their earnings. The writers have seen many examples of employee ingenuity which have kept poor machines going under piecework systems in order to keep earnings up. The fact remains, however, that inefficient management invites grievances and labor unrest under piecework, if not demands for the elimination of the incentive itself.

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[8] *Business Week* (October 26, 1946), pp. 102–108.

[9] B. M. Selekman, "Living With Collective Bargaining," *Harvard Business Review*, **20**:30 (1941).

Even when unions accept piecework they make strenuous efforts to increase labor control over them. Thus the United Mine Workers requires payment for "dead work" and compensation for other unfavorable conditions; the Textile Workers Union fights management on the work load or stretchout issue without opposing the incentive *per se;* and the United Steelworkers are vitally concerned with methods of computing tonnage rates without ever attacking the basic system itself. A strong union, by placing numerous restrictions on the incentive system, may actually reduce that system to time work. The leather workers' division of the International Fur and Leather Workers Union, by limiting output, has practically converted piecework into time work.[10]

The great majority of unions does not take a strong stand either for or against piecework. Many of them operate in industry where there is no problem over methods of payment. Others simply accept the status quo or attempt to secure minor modifications. As mechanical contrivances continue to reduce the importance of human effort, the issue in collective bargaining over methods of payment is likely to decline in intensity.

Wages—Ends and Means

> Mr. Gompers: "Just a moment. I have not stipulated $4 a day or $8 a day or any number of dollars a day or eight hours a day or seven hours a day or any number of hours a day, but the best possible conditions obtainable for the workers is the aim."[11]

Thus Samuel Gompers summed up the AFL's philosophy of ever more wages and better working conditions. In achieving these continually improving conditions American unions have frequently had broader objectives than merely raising the wage bill; and to attain their wage goals, they have done much more than bargain directly or strike.

WAGE POLICY AS A TOOL

When a union requests higher wages, usually it is aiming at precisely that. On many occasions, however, the objective may be something else.

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[10] Leo Brown, *Union Policies in the Leather Industry* (Cambridge, Harvard University Press, 1946).

[11] From Gompers' debate with Socialist leader, Morris Hillquit, *Commission on Industrial Relations* (Washington, 1916), vol. II, p. 1500.

For example, unions commonly utilize wage slogans in membership drives. When the CIO put on its big mass production industry drives in 1936–37, it played up demands for higher wages. "Join the union for a buck; get a buck a day increase," has been a common rallying cry.[12]

Not only unions use wage policy as a tool in organizing drives. Employers often grant wage increases to stymie unionization. In 1936–37, United States Steel gave increases to forestall unionization; then it was forced to grant more increases after the union was recognized.

Wage policy may also be used to allocate income. Of the union agreements studied by the United States Bureau of Labor Statistics in late 1946, 85 per cent provided overtime pay at the rate of time and one-half for all work in excess of 8 hours a day or 40 hours a week. In addition almost one-half of these agreements provided for a penalty pay for work performed on Saturday as such and about 60 per cent provided penalty rates for Sunday work as such. Sunday was usually paid at double time and Saturday at time and one-half.[13]

Although in times of full employment, penalty overtime provisions tended to increase the individual worker's wage bill, historically the main union objective has been, once hours were reduced to a reasonable level, to use penalty overtime provisions to discourage employment of the same workers beyond the legal workweek, and thus to encourage management to spread the work among more employees. In other words instead of using 2 shifts of 12 hours each for around-the-clock operations, penalty overtime encourages the use of 3 shifts of 8 hours each. In this way wage policy is utilized to spread work or to allocate income among more employees in the union.

Penalty overtime for Saturday or Sunday as such, however, is also a means of penalizing employers for depriving workers of their ordinary leisure hours. The use of wage policy to secure paid leisure is also illustrated by the prevalence with which paid vacations and paid holidays now appear in union agreements. The drive for paid vacations began in the late 1930's. Not infrequently unions gave up opportunities to win wage gains in order to secure paid vacations. Undoubtedly, this was in line with the wishes of the workers. Many employees had had considerable unpaid leisure during the depression and to them a paid vacation had a peculiar satisfaction which placed it above a mere wage increase on their preference scale. Moreover since paid vacations have traditionally been the perquisite of the upper classes, the employees saw in them a social as well as an economic gain. The situation with paid holidays, which received their main impetus during World War II, has been similar.

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[12] This section owes much to J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944).

[13] "Premium Pay Provisions in Selective Union Agreements," *Monthly Labor Review*, **65**:419 (1947).

"Fringe" issues, including not only vacations and holidays, but sick leave and benefit programs as well, are often pushed by union leadership because of their prestige value to the leadership. In the post-World War II years benefit programs became a vogue. The union leader who did not secure such a plan for his membership was not "keeping up with the Joneses" in the social stratum of union leadership. Hence, it was not uncommon to see more stress placed on benefits than on wages, although inflation continued to make wages as such the dominant issue.

In Chapter 6 we noted how wage policy could be used to control the rate of technological change. The rate secured by the union for work on a new machine could make the machine more or less economical to introduce and thus go a long way to determine the speed with which it was introduced. We noted there also that wage policy could be utilized to control entrance to the trade. A high rate for apprentices tends to discourage their use; a low rate to encourage their use.

Wage policy may also be utilized to control working conditions. Longshoremen receive triple time for loading explosives on ships and double time for loading such unpleasant cargo as fertilizer. Shipyard welders are paid extra compensation for the nasty job of welding in the hold of the ship. Penalty rates of one kind or another are frequently demanded by unions not only for dangerous and unpleasant work, but also to encourage managerial improvement of such conditions.

Along the same line has been the development of shift differentials. During World War II, it became quite common to pay 5 cents per hour or a 5 per cent differential for the "swing" or 4 P.M. to 12 midnight shift, and a differential of 10 cents per hour or 10 per cent for the "graveyard" or 12 midnight to 8 A.M. shift. This practice has been continued since the war. Approximately three-fourths of the total number of workers in a Bureau of Labor Statistics sample were under agreements which required a differential for work on shifts other than the first or regular day shift.[14] The rationale for these provisions is that working odd hours upsets personal and family life to such an extent that extra compensation should be paid.

It should be noted that in all of the foregoing matters, wage policy was used not primarily to secure increases, but, often with more direct methods, to achieve other objectives. If one fails to realize that wage policy is a tool as well as an end, union wage policy becomes incomprehensible. Moreover as employer actions in raising wages to keep out unions illustrate, management also has fully realized that wage policy is both a tool and an end.

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[14] "Premium Pay Provisions in Selective Union Agreements," *Monthly Labor Review*, **65**:423–424 (1947).

Indirect Wage Policy

American trade unions have demonstrated an enormous capacity for improving the employer's ability to pay. Faced on the one hand with the demands of union members for improved wages and working conditions and on the other hand with the response of management that the ability to pay is lacking, union leaders have initiated a variety of programs designed to improve the employer's profit position. One of the most obvious of these has already been discussed in Chapter 6, namely, union-management coöperation to reduce production costs. It, however, is only one of many. For example, during World War II, many unions joined employers in appeals to the Office of Price Administration for price increases so that the employer could grant wage increases. The railroad unions have on several occasions appealed to the Interstate Commerce Commission to raise railroad rates so as to permit wage increases. In 1948 the Transport Workers Union actually promoted higher bus and subway fares in New York City in order to secure sizable wage increases.

Unions have also attacked the problem of employer profit margins on other fronts. A number of unions have engaged in advertising in order to stimulate demand for the product of the industry in which they operate. The United Hatters, Cap and Millinery Workers Union has developed an intensive advertising program to persuade people to wear hats. In 1948 the union appropriated large sums to sponsor a National Children's and Teens' Hats Promotion Committee which would go after a neglected market. The International Ladies Garment Workers' Union has spent considerable sums to promote New York City as a style center in order to fight shrinking employment in the dress industry there. Similar advertising has been carried on by the International Association of Machinists, the Brotherhood of Painters, the International Typographical Union, and the Marine and Shipbuilders.

A number of unions have utilized political pressure to promote legislation designed to keep their industry in sound condition and hence able to pay increased wages. The railroad unions have actively and successfully lobbied for such things as restrictions on the loads motor trucks can carry, reduction of federal aid to other forms of transportation and even elimination of railroads from anti-trust legislation. Many unions, including those in the glass industry, the pottery workers, the coopers, and the printing trades, have sponsored tariffs to reduce foreign competition. In 1945 the New York papers were deluged by a series of advertisements, one sponsored by a union in the jeweled watch industry which wanted a tariff on Swiss watches, and the other by the union of watch assemblymen who work on parts mainly purchased from Switzerland and wanted no such tariff.

Also aimed at affecting the demand for industry production is the union label which will be discussed in Chapter 9. Essentially, it is a device for differentiating the product and thus increasing the demand.

Union policy affecting demand and prices has not always kept within the law. The Photographers and the Electrical Workers have made collusive agreements with manufacturers which have had the effect of keeping out of areas non-local goods so that prices and wages in the local area may be raised. In Seattle, Washington, particularly, but also in other areas, the Teamsters' union has picketed employers who have cut prices on the grounds that price cutting will mean a wage cut.

In the garment trades it has become quite common for the union to set standards for the price at which the garment may be sold. The objective here is to prevent small manufacturers who deal with a few large retailers and wholesalers from reducing their prices and making it up on kickbacks or other non-contractual reduction of wages. In addition, in the garment trades the unions traditionally negotiate with the manufacturers, but make wage conditions binding on the subcontractors who do not take part in the negotiations. This they found necessary to prevent wage cutting by subcontractors from destroying union standards.

In the barber trade, the union bargains almost solely in terms of prices rather than of wages.[15] The reason is that the wage is determined almost exclusively by the price. Thus there is continual pressure on the part of unions to force up the price of haircuts. In New York City in 1947 the price of haircuts was pushed up to such an extent that a considerable number of shops went non-union. Here the union overestimated its ability as a wage and price stabilizer; and also it miscalculated the elasticity of the demand for haircuts.[16] For even when people did not patronize the non-union shops they tended, at the price of 95 cents per haircut, to have haircuts at less frequent intervals.

In many states the Barbers' union has been able to go further and secure the adoption of legislation setting up commissions which had the effect of stabilizing prices of haircuts, frequently in the upward direction.[17] The success of the United Mine Workers during the 1930's in promoting legislation which pushed up the price of coal so that wages could be increased was of a similar nature.

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[15] W. S. Hall, *The Journeymen Barbers' International Union of America* (Baltimore, Johns Hopkins Press, 1936).

[16] Elasticity may be defined as the reaction of demand to price. Thus, if the elasticity is one, an increase in price would result in a proportional decrease in quantity demanded so that gross sales revenue would not change; if the elasticity of demand is less than one, the demand is said to be inelastic; if greater than one, elastic.

[17] W. F. Brown and R. Cassady, Jr., "Guild Pricing in the Service Trades," *Quarterly Journal of Economics*, **61**:311–338 (1947). Many professions have used state commissions to stabilize prices at high levels.

These are some of the many examples of union ingenuity in improving employers' ability to pay. The wide extent of union interests in employer profits and in the demand for the product is a direct result, on the one hand, of the pressure on unions by the membership to find ways and means of improving wages and working conditions and, on the other hand, of the realization on the part of union leaders that improved wages and working conditions can only be secured from a profitable enterprise.

Union Politics and Wage Policy

The union is not a pure economic entity, but a body politic. And union politics affect wage determinations in a multitude of ways. Basically, union leadership must lead—but it cannot be too far in front of the rank and file any more than it can be behind them. Always the decision on wages must be made with the criterion of personal political fortune in mind. Lest this be considered reprehensible, let us recall that the ablest, most sincere labor leader cannot utilize his ability and sincerity if the membership replaces him.[18]

Thus union wage policy is not capable of full analysis in terms of supply and demand relationships, of maximization of returns, or pure concepts of the pure economic theorist. These factors are often important, to be sure. But they do not yield the full story.

Intraplant Differentials

The first job of the union leadership is to hold the organization together. Except for a few craft organizations, most union memberships are not homogeneous. The International Association of Machinists deals with a great variety of industries. The United Automobile Workers includes toolmakers and sweepers, nurses and charwomen, as well as assembly line operators. The Amalgamated Clothing Workers has unionized highly skilled cutters as well as unskilled laundry workers. Within these and other organizations is a variety of interest groups all clamoring at union leadership for their "fair" share. How to satisfy these conflicting pressures is a vital leadership and political problem.

Most unions, as noted in Chapter 4, are careful to insure representation of all interest groups in the union government. Even so, they are likely to attack the problem of intraplant wage differentials cautiously. Although officials of the United Steelworkers characterized the wage structure of the basic steel industry as totally incoherent, they made no effective attack on it until the War Labor Board ordered a thorough job analysis by the union and the United States Steel Corporation as a prerequisite to eliminating intraplant inequities.

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[18] For an excellent statement of the political factor in wage determination see Arthur Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948).

Nor is this surprising. Some workers have as much a vested interest in maintaining an out-of-line wage structure as others have in eliminating it. Until a union becomes intrenched, it is unlikely to upset the status quo to such an extent that deep antagonisms are aroused. Wage differentials represent social status. Men are often more upset by what is being paid others than by what they receive. Eliminating unequal pay for equal work seems fair—but not to the receiver of unequal pay who believes that he deserves a differential over the job which has just been equalized with his.

Skilled versus unskilled is a constant source of intraunion tug of war.

> Across-the-board wage increases gained by the United Automobile Workers between 1937 and 1942 had the result of flattening the rate structure of the industry. The differential between the wage rates of sweepers and toolmakers was reduced from about 120 per cent to about 40 per cent. In 1944, a number of articulate spokesmen began to agitate the skilled workers. The Mechanics' Educational Society of America (an independent union centered in Toledo) became active in Detroit and aroused considerable interest among tool and die workers. There was some possibility that carpenters, electricians, and other maintenance men would transfer to various AFL unions. The result was a 5-cent increase for all apprenticeable occupations in the automobile industry. (Convincing the National War Labor Board that it might legitimately order the increase under stabilization rules was a spectacular political achievement in itself.)[19]

KEY WAGE BARGAINS

The relation of the wage schedule of a particular plant to those of other plants in the industry and/or area, or even to those in the country is becoming of increasing importance. Indeed, "we have reached the stage where a limited number of key wage bargains effectively influence the whole wage structure of the American economy."[20] The agreements reached between the General Motors Corporation and the United Automobile Workers, between the United States Steel Corporation and the United Steelworkers, or between the bituminous coal operators and the United Mine Workers affect not only wages in the particular industries involved, but in thousands of others as well. Unions and managements look to these and other "key" bargains as a peg on which to hang their agreements. Faced with the need of resolving differences, they find in key bargains a figure upon which they can rationalize a contract.

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[19] A. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), pp. 32–33. See also David Roberts, "The Meaning of Recent Wage Changes," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), pp. 226–237.

[20] J. T. Dunlop, "American Wage Determination: Its Trend and Significance," in *Wage Determination and the Economics of Liberalism* (Washington, Chamber of Commerce, 1947), p. 42.

Key wage bargains reached peak importance during and after World War II. Under wage stabilization, the National War Labor Board enforced the same general wage policies for nearly all industry. When the war ended, a series of events made 18.5 cents per hour a magic figure upon which settlements were made in numerous industries. The politics of unionism required it. At the end of the war, the uncertain economic situation was complicated by fears of interunion warfare and raiding, and intraunion upheavals. Union leaders felt that if they accepted less than the key bargain, their political lives would be in danger.

Even in the immediate post-World War II period, however, reactions to key wage bargains were more elastic than has been generally assumed. For the period August 1945 through April 1946, the United States Bureau of Labor Statistics reported that of those workers receiving wage adjustments in manufacturing industry, 19 per cent received less than 10 cents, only 21 per cent received exactly 18.5 cents and 10 per cent received more than 20 cents.[21] Despite the continued importance of key wage bargains since 1946, settlements based upon them have varied much more in response to local conditions. It is likely that they will continue to do so as labor relations settle down to peacetime normalcy.

Besides key wage bargains in the economy generally, each industry is likely to have its wage leaders just as many industries operate under a system of price leadership. Thus the building trade negotiations in New York and Chicago are likely to be influential in other local areas. The same situation obtains for the printing industry negotiations in these two cities and for the negotiations in the transit industry in Detroit and Boston.[22]

The existence of wage leadership is often recognized by both labor and management. Often it existed in industry prior to unionism. For example, other steel and oil companies have always adjusted wages to patterns set by United States Steel and Standard Oil of New Jersey. Moreover, wage leadership often goes hand in hand with price leadership. It is extraordinary that economists who are fully familiar with the phenomenon of price leadership find wage leadership "novel" or "surprising" and charge its existence solely to the advent of unionism.

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[21] J. T. Dunlop, "American Wage Determination: Its Trend and Significance," in *Wage Determination and the Economics of Liberalism* (Washington, Chamber of Commerce, 1947), pp. 37–38.

[22] J. T. Dunlop, "American Wage Determination: Its Trend and Significance," in *Wage Determination and the Economics of Liberalism* (Washington, Chamber of Commerce, 1947), p. 42.

Wage leadership also does not depend upon the existence of national, regional, or other forms of "industry-wide" bargaining. It is as important a phenomenon in the automobile industry where company wage policies are set individually as in the flat glass or Pacific Coast paper industry where industry bargains through joint committees or associations. And key wage bargains are important whether wages are determined by collective bargaining, by voluntary arbitration, or by some sort of government determination.[23]

"Going Rates"

In order to stabilize wages during World War II, the National War Labor Board requested the Bureau of Labor Statistics to make detailed wage studies through the industrial areas of the nation. Almost without exception, such variations in wage rates for the same job in the same industry and/or area were found that the War Labor Board was forced to set as "going rates," ranges or brackets instead of single rates. The stabilization program did much to eliminate these interplant differentials in given industries and areas. Nevertheless, even today variations in job rates between plants and industries in given areas not only exist, but are more common than otherwise.

The implications of interplant differentials for economic theory will be explored in later chapters. Here it is essential to point out that the traditional theorist has assumed that under competitive conditions wage rates for the same job in the same area will tend to be identical; that "under a free labor market different wage rates for the same kind of labor could not long exist"; and that "we have a real problem of different wage rates for the same work only when there is not a free labor market—when there is labor monopoly."[24]

In actual fact, the exact opposite of these statements is more nearly correct. In the absence of unions, wage structures, like Topsy, just grow. The entrance of the union brings pressure for coherence. Union leaders learn from the workers that "mechanics over at the Jones Company are getting $1.10, but we are only getting $1.05." Managements who receive these complaints discover the need to know what competitors are paying. The elimination of distress-causing interplant differentials is often a goal to both management and union leadership.

Differentials between plant job rates, however, often are not easy to eliminate. In some cases, plants are known as "high wage firms." These are the companies that try to pay higher than going rates. They may have done so initially to keep out unions or to attract a superior type of labor. The advent of unionism has caused many concerns to question these high wage policies, but some still adhere to them.[25] Employees of such firms are likely to try to maintain their differentials; employees of other firms are just as likely to try to eliminate them by raising their standards. Just such a case drew this comment from an experienced arbitrator:

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[23] J. T. Dunlop, "American Wage Determination: Its Trend and Significance," in *Wage Determination and the Economics of Liberalism* (Washington, Chamber of Commerce, 1947), pp. 42–43.

[24] F. R. Fairchild, *Profits and the Ability to Pay Wages*, Popular Essays on Current Problems (Foundation for Economic Education, 1946), vol. I, p. 16.

> I don't want to start an argument on this, but I sat on the Knoxville case. The Knoxville union contended we should level the scale up more closely to the Chattanooga scale, and in my award I think you will find a reference to the fact that I thought we ought to eliminate some of these pockets in the South. But now, if Knoxville claims you should level up to Chattanooga, and then the Chattanooga printers say we ought to maintain a differential over Knoxville—I mean, just where do we get off on that?[26]

Follow-the-leader situations are not the only reason for maintenance of interplant differentials. For wage negotiations, unions and employers often make surveys of plants to which they wish to be compared. Unions are likely to secure data from high wage concerns, employers from low wage ones. A compromise agreement may be hammered out putting the company between the two extremes. Differentials thus become rooted and difficult to alter.

Another complicating factor which tends to maintain differentials is the lack of uniformity of job titles and job content. In the same industry or area, the same job title may be used for dozens of dissimilar operations. The War Labor Board found that it was impossible to make comparisons of interplant rates on the basis of job titles, but instead required detailed job descriptions and often sent investigators to plants in order to check on the descriptions as well. Even then, one could never be absolutely certain whether "Tool and Die Maker—A" and "Screw Machine Operator—B" meant the same thing for the Jones Company as for the Smith Company. Yet workers and employers more often than not base their bargaining claims on simple job titles rather than detailed job content.

AREA RATES VS. INDUSTRY RATES

Thus far we have assumed no conflict between area and industry rates. However, that is often not correct. The oil industry, for example, generally makes a practice of paying industry rates which are higher than those paid for other industries in oil producing or refining areas. In addition, firms in steel, meat-packing, glass, automobile assembly, airframe manufacture, rubber, and textiles "pay wages in line with the industry" rather than with the community in which the plants are located.[27] In many areas, of course, these industries are such important employers that their industry rate becomes the community rate.

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[25] R. A. Lester, *Company Wage Policies* (Princeton, Industrial Relations Section, 1948), p. 22.

[26] Statement of Professor (now Senator) Paul Douglas, quoted in *How Collective Bargaining Works* (New York, The Twentieth Century Fund, 1941), p. 77.

In the case of multi-plant companies, company wage policies are likely to supply area or even industry rates. General Motors pays the same basic scale for all plants. So do Ford and Chrysler, and many multi-plant concerns in rayon, aircraft, furniture, and oil among others. Standardization of product and operations, transfer of personnel, uniform job evaluation, and bargaining relations with the same union in all plants are some of the factors which induce multi-plant concerns to adopt company rates rather than community rates.[28]

Regional or national collective bargaining between unions and employers' associations also induces adherence to industry rather than community rates. In some instances, however, industry uniformity is achieved under regional or national bargaining mainly for jobs peculiar to the industry. In other jobs, the effect of area rates may be strong.[29]

Regional Differentials

In a country as large as the United States, regional wage differentials are of significant importance. For example, "the persistence of lower wage levels in the South has, among other things, influenced the pattern of industry location and labor migration."[30] In recent years, however, as Fig. 2 shows, the relative wage position of the South has changed little. The percentage gap between manufacturing job rates in the South and in other regions was as wide in 1945–46 as in 1919. On the other hand, the Far West, traditionally a high wage area because of recurrent labor shortages, saw its favored position decline in the period covered by the data in Fig. 2.

Within any region, there is tremendous variation. A job-for-job comparison, cutting across industry lines, exhibits a wide range of differentiation. Significant variations also occur if comparisons are made on the basis of skill or of city and country areas within regions. For example, in the South skilled workers have constantly been in a more favorable position than have other groups. The differentiations between skilled workers in the South and those in other areas as shown in Table 15 have always been significantly less than regional differentiations between other groups. The reason appears to be discrimination against Negroes who are concentrated in unskilled occupations in the South, and who receive lower wages for such work than do white workers.

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[27] R. A. Lester, *Company Wage Policies* (Princeton, Industrial Relations Section, 1948), p. 17.

[28] R. A. Lester, *Company Wage Policies* (Princeton, Industrial Relations Section, 1948), pp. 18–19.

[29] R. A. Lester and E. A. Robie, *Wages Under National and Regional Collective Bargaining* (Princeton, Industrial Relations Section, 1946).

[30] Joseph W. Bloch, "Regional Wage Differentials: 1907–46," *Monthly Labor Review*, **66**:373 (1948).

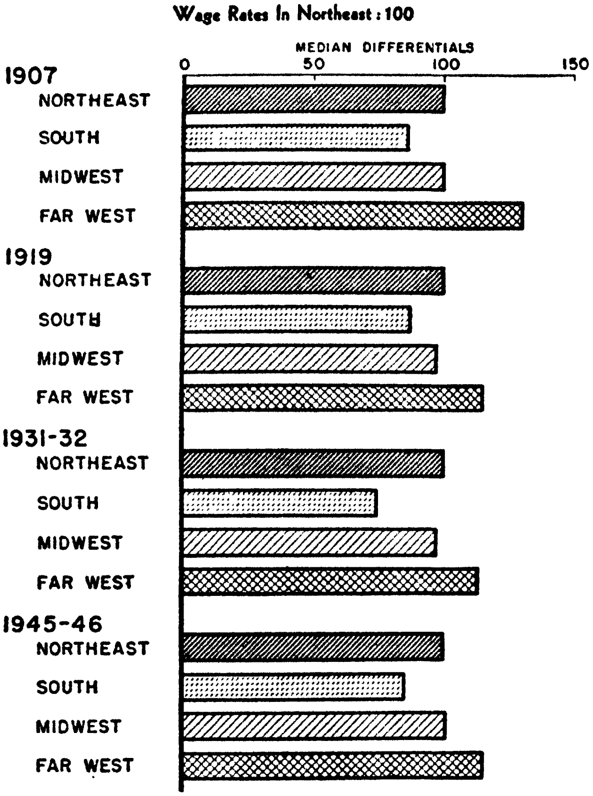

FIG. 2. Regional differentials in job rates have changed little in 40 years. (Source: U. S. Department of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, **66** (1948), p. 372.)

"In contrast with the situation of men workers, the wage position of women in the South relative to the Northeast appeared to be substantially better in 1945–46 than during the earlier periods studied. In 1919, occupational earnings of women in the South were, on the average, about 81 per cent of corresponding earnings in the Northeast, as compared with 88 per cent for men's jobs. Women's occupations were affected less than men's by the subsequent widening of differentials, and, in 1931–32, were at about the same level, that is, approximately 73 per cent of northern wage levels. The 1945–46 data indicated that the women's group in the South was paid 87 per cent of comparable rates in the Northeast—a somewhat better position than that of men's occupations (84 per cent).[31]

Table 15

MEDIAN REGIONAL DIFFERENCES IN OCCUPATIONAL WAGE RATES IN MANUFACTURING INDUSTRIES, BY SKILL AND SEX, SELECTED PERIODS*

(Wage rates for corresponding occupations in the Northeast = 100)

Occupational Category and Period	*Median Relation to Northeast (in Per Cent)*		
	South	*Middle West*	*Far West*
All occupations			
1907	86	100	130
1919	87	97	115
1931–32	74	97	113
1945–46	85	101	115
Men's occupations			
1907	88	100	131
1919	88	98	117
1931–32	74	97	114
1945–46	84	102	115
Men's skilled occupations			
1907	93	99	131
1919	95	98	[a]
1931–32	83	96	[a]
1945–46	91	101	113
Women's occupations			
1907	[a]	[a]	[a]
1919	81	92	[a]
1931–32	73	[a]	[a]
1945–46	87	98	114

* Source: *Monthly Labor Review*, **66**:375 (1948).

[a] Number of occupations covered too small to justify selection of median.

Table 16 shows the relative levels of straight-time hourly earnings in 22 cities, 1945–46. In general it will be noted that the lowest wages were in southern cities and the highest in the Northeast and Far West. Nevertheless, there was considerable inconsistency within each region. Thus Philadelphia and Boston were as close in relative position to some of the southern and border cities as they were to some of the cities in their own area.

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[31] Joseph W. Bloch, "Regional Wage Differentials: 1907–46," *Monthly Labor Review*, **66**:375 (1948).

Table 16

RELATIVE LEVELS OF STRAIGHT-TIME HOURLY EARNINGS[a] IN 22 CITIES, 1945–46*

City	*Estimated Hourly Earnings, Average Factory Worker, October 1946*		*Rank[b] by Average Hourly Earnings for Comparable Work in 4 Industry Groups*			
			Manufacturing		*Nonmanufacturing*	
	Relative[c] (Median City = 100)	*Rank[b]*	*Bakeries, 1945*	*Metal-working, 1945*	*Retail Trade, 1945*	*Other, 1945*
New York	120	1	4	8	8	4
Detroit	115	2	6	1	4	8
Los Angeles	110	3	5	5	5	5
Pittsburgh	110	3	8	13	12	13
Seattle	110	3	1	2	2	2
San Francisco	110	3	2	2	1	1
Portland, Ore.	110	3	3	4	6	2
Cleveland	105	8	11	6	7	6
Chicago	105	8	7	7	3	6
Buffalo	105	8	11	9	17	11
Milwaukee	110	11	15	10	14	10
Philadelphia	100	11	10	11	9	14
Baltimore	95	13	16	14	18	17
Boston	95	13	13	12	12	9
Indianapolis	95	13	16	16	15	15
Minneapolis	95	13	14	15	10	12
Houston	85	17	16	18	11	19
Birmingham	85	17	21	19	19	19
St. Louis	85	17	8	17	16	16
Richmond	85	17	20	[d]	21	18
Atlanta	75	21	22	20	20	19
Memphis	75	21	19	[d]	22	22

* Source: *Monthly Labor Review*, **66**:600 (1948).

[a] Excluding premium pay for overtime and night work.

[b] Where two or more cities rank equally, the highest rank has been assigned to all such cities and the intervening ranks between these and the next city are omitted.

[c] For method of computing relatives see *Monthly Labor Review*, **66**:602, note 6 (1948).

[d] Insufficient data to justify presentation of rank.

Cities paying high wages in one industry generally stood above average in most other industries. Nevertheless, again there is considerable disparity in relative position from industry to industry within each city. In general, the metal-working industries brought up the averages of all the cities in which they were prominent.[32] As between industry groups, differentiations between the South and other areas vary widely. A careful study of southern wage differentials led to the following conclusions:

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[32] L. M. David and H. Ober, "Intercity Wage Differences 1945–46," *Monthly Labor Review*, **66**:599–604 (1948).

1. There is tremendous and irrational differentiation in the average North-South differential. It is virtually non-existent in glass, aircraft, rayon, and bituminous coal as well as in the skilled trades. The North-South differential averages only 5 or 10 per cent of northern rates in automobiles, oil, printing, railroad transportation, and cotton textiles. But it averages as high as 20 to 30 per cent of the average northern wage for comparable jobs in furniture, full-fashioned hosiery, rubber tires and tubes. There is no rational reason for this variation in the North-South differential, particularly when such related industries as oil, rubber, automobiles, and aircraft have such different wage patterns.
2. Within the same industry North-South wage differentials may vary widely.
3. Wage differentials between firms within the same local areas in the South are generally considerably larger than the average North-South differential for comparable jobs in the cotton textile, furniture, and seamless and full-fashioned hosiery industries. This is probably partially attributable to the lesser degree of unionization in the South.[33]

On the basis of these data one may conclude that most companies which operate in low wage areas like the South are apt to base their wage policy on rates paid in the locality. There are, however, significant variations. For example, many companies such as those in the glass industry, aircraft production, and automobile industry pay uniform company wages. There seems to be no rhyme or reason to company policy toward regional differentiations. Both the automobile industry and the rubber industry are dominated by a few large companies which have plants in both the North and South; both are organized by the CIO; and both have adopted uniform price policies for their products. Yet the auto industry by and large has adopted the policy of uniform company wages regardless of locality, whereas the rubber industry has based its wage policy on community rates with the result that there is a marked North-South wage differential in the manufacture of rubber tires. Parenthetically, it should be pointed out that available data tend to show that output per man-hour in terms of labor effectiveness in rubber tire production is not significantly different in the North and in the South.[34]

In general, union policy has opposed regional wage differentials. The United Mine Workers, for example, has succeeded in equalizing basic wage rates between the North and South Appalachian coal regions; the United Steelworkers has fought the differential between Birmingham,

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[33] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal,* **13**:387–388 (1947).

[34] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal,* **13**:388–389 (1947).

Alabama, and northern steel centers, but has not succeeded in eliminating it; and the automobile workers and rubber workers are devoted to elimination of southern wage differentials.

On the other hand, many unions have not opposed southern wage differentials since they regard them as justified by certain circumstances. Because of a poor grade coal and higher transportation costs, the United Mine Workers continues to sanction wage differentials between the Alabama bituminous area and those of the Appalachian region; the Federation of Dyers, Finishers, Printers and Bleachers of America has sanctioned differentials between Virginia and the New York metropolitan area. "Local unions in companies or branches of an industry with high wage-paying ability have at times been reluctant to forego the possibility of exploiting their favorable position in order to maintain a uniform wage scale on a national, or even a regional basis."[35]

The difficulty of organizing workers in the South, combined with the low wages of this area, has served as a brake on a number of North-South wage differentials. Unable to organize the South, the hosiery and the textile workers have been forced to guard against raising the North-South differentials so high that a number of unionized mills would be driven out of business. The failure of the United Mine Workers to organize southern coal mines in the twenties almost destroyed the union. The northern mines were forced to break with the United Mine Workers in order to compete with the low wage South. In these cases the problem of the regional differential to the union is the problem of union and non-union competition. From the union point of view, this is precisely what regional differentials are likely to mean, especially when an industry or the general economic system is depressed. On the other hand when the union has organized high wage areas like the Far West, the problem may not be so severe, for the special localizational aspects of far western industry, which serves primarily a regional market, may mean that, like the west coast pulp and paper industry, it can pay higher wages than other parts of the country without damaging its market or without adversely affecting employment.

Wage Cuts

Union leaders are elected to secure economic benefits for their constituents. In depressed times, however, they may be faced with demands for wage decreases. Generally, unions oppose such demands or only yield to them with the utmost reluctance when employer bargaining power is obviously overwhelming. There are many reasons for this attitude, both economic and political.

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[35] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal,* **13**:389 (1947).

In the first place, "wage structures are bargained for in an essentially noncyclical time setting."[36] Although unions invariably use the cost of living argument in inflationary times, they rarely rely wholly upon it. The logic of such reliance would be first, an admission that wages should rise only as much as the cost of living and therefore that no improvement in the real wages of workers would be possible; and second, that wages should be tied to a cost of living index.

Both corollaries flout the realities of collective bargaining. To be sure, cost of living agreements providing for automatic adjustments as a particular index fluctuates have frequently been made. They rarely endure, however, because "sliding scales are a substitute for collective bargaining. The union could not take credit for (upward) wage adjustments that were essentially automatic in character."[37] On the other hand, political opponents of union leaders would be quick to give full responsibility to those who negotiated an agreement which resulted in automatic *downward* adjustments. The much heralded cost of living agreement negotiated between the General Motors Corporation and the United Automobile Workers in 1948 was accepted by the union reluctantly and only after strict limits as to possible downward adjustments were included, in addition to further provision for permanent periodic "merit" increases.

A basic reason for union opposition to wage reductions is that "there is no assurance that a given change in wages will be associated with a corresponding change in labor cost, or with any predictable change whatever."[38] Unit labor cost and wage rates or earnings do not necessarily move together, and in various industries have frequently moved in opposite directions. The reason for this is that unit labor cost is a function of productivity (output per man-hour) as well as hourly earnings. Since productivity may be affected by numerous changes in technology, organization, human efficiency, and intensity of labor utilization, which unions can neither predict nor control, it is unreasonable to expect union leaders to attempt to give as much weight to the effect of wage cuts on labor costs as many economists and businessmen believe desirable.[39]

The other factors determining employment besides labor costs (consumer demand, selling price, per cent labor costs are of total costs) are likewise subject to considerable variation and uncertainty. The lack of knowledge, the indeterminability and general uncertainty of future developments in all the variables explain to a great extent why unions resist wage cuts and attempt to bargain essentially "with an eye to non-cyclical circumstances."[40] Practically speaking, a union leader can ill afford the political repercussions of negotiating a wage cut avowedly to decrease or to prevent further unemployment when neither he nor the employer can be at all certain that lower wages will have the hoped for result.[41]

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[36] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 68.

[37] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 67.

[38] A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), p. 80.

[39] See A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), chap. 4, for supporting data and arguments.

Unions resist wage decrease demands in depressions also because wage policy, by and large, is made by the employed, rather than the unemployed union members. Even if there is reason on the part of the leadership to believe that the demand for the plant's labor is elastic, the employed members might prefer to pursue a wage policy of maximizing wage rates rather than employment.[42] This is clearly the policy of the United Mine Workers, and generally, of most railway and building trade unions.

Finally, many unions prefer to maintain rates and wink at undercutting, kickbacks, and other forms of concealed reductions. Such concealed reductions are likely to become common as unemployment rises and competition for jobs increases. By permitting them to continue unmolested (and the union may be powerless to interfere if unemployment is severe), the union preserves its rate. This, in turn, eases the return to predepression standards once economic conditions improve and the union can crack down on underhand wage cutters. If, on the other hand, wage decreases have been negotiated, the road back is less smooth.[43]

"The quoted base rate is regarded by a trade union as a symbol of its achievements and except under special circumstances is defended very stubbornly against cyclical reductions."[44] This not only explains why unions prefer to permit concealed reductions rather than to negotiate decreases, but also accounts for union willingness to bargain away preferred working conditions in order to maintain the basic rate.[45]

Despite their firm opposition to wage cuts, unions have agreed to them on many occasions. There have been special reasons in nearly every case. Often it has been pressure of non-union competition. The American Federation of Hosiery Workers took a cut of 35 to 40 per cent in 1931 in order to prevent almost complete elimination of union firms. The decrease had to be large enough so that the lower-paying non-union firms could not match it.[46] This agreement also included a new union shop provision, thereby increasing the leaders' ability to carry it out, which they did despite some protest strikes.

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[40] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 68.

[41] This argument is developed in greater detail, with emphasis on the theoretic implications, in Chapters 15 and 16.

[42] J. Shister, "The Theory of Union Wage Rigidity," *Quarterly Journal of Economics*, **57**:523–524 (1943).

[43] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 67.

[44] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 67.

[45] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), pp. 67–68.

Another reason for unions' accepting wage cuts is found in pressure from the unemployed. This makes itself felt in two ways. The unemployed members may believe that a wage reduction will increase their chances of employment. As their number grows, the pressure on the employed members to accede increases. In addition, the existence of unemployment reduces the union's bargaining power in negotiations. The fear that the unemployed will break a strike and that the employed will not hold out if a strike is called has impelled unions to agree to reductions.

When a wage reduction appears inevitable, unions will attempt to secure some compensations. As already noted, the American Federation of Hosiery Workers secured the union shop in 1931. When the railroad unions agreed to a 10 per cent reduction effective February 1, 1932, they mitigated its effects by securing a corollary agreement that the reduction was to be temporary. This aided these unions no little to return to pre-1932 wages in 1934.

Wage Rates, Earnings, and the Effect of Unions

Essentially, unions bargain for wage rates, not earnings. There are some exceptions, of course. The Musicians' union frequently follows an intricate policy of bargaining both for a total annual wage bill, and the number of persons who are to share it. "Nevertheless, the bargaining process is almost always directed toward an upward or downward change in a preexisting wage rate, and the greatest interest often centers on the magnitude of the change."[47] Basically the reasons for this lie in the political nature of unionism, and the consequent need for union leaders to "produce" as much as rivals.

The concentration of collective bargaining on wage rates does not mean that earnings suffer. The evidence may now be to the contrary. Until recently, data developed in the path-breaking study of Paul H. Douglas indicated the orthodox economic theory was correct in proclaiming the inability of unions to alter the distribution of real income, at least substantially. A reëxamination of the Douglas data, and a careful analysis of the more comprehensive data now available led Dr. A. M. Ross to conclude that "real hourly earnings have advanced more sharply in highly organized industries than in less unionized industries, in periods of stable or declining union membership as well as periods of rapid organization. No reason has been found to believe that the relationship is coincidental."[48] Since Ross' data were published, however, critics have found reason to doubt the validity of this conclusion, particularly because the periods studied are too short to distinguish the variety of casual factors affecting wages.[49]

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[46] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 353–356.

[47] A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), p. 46.

Criteria in Wage Negotiations

Little attention has been paid in this chapter to criteria used by labor and management in wage determination. The reason is that these criteria are basically rationalizations pressed into service to support demands which need justification. Changes in the cost of living, a basic minimum standard or budget, ability to pay, maintenance of take-home pay, changes in productivity, effect on consumer purchasing power, etc., are all frequently used by both labor and management, depending upon their suitability at a given time. Even arbitrators frequently write these criteria into opinions concocted to explain decisions already arrived at.

That is not to say that criteria do not have their place in industrial relations. Man prides himself on his rationality. Explanations are needed to fortify needs, wants, or demands and to gain support for them. Every battle must have its slogans. The slogans should not, however, be confused with the practical realities of union-management wage determination, however important they might be in crystallizing these realities in the form of policies.

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[48] A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), p. 132; see chap. 6 for the full data and explanation thereof.

[49] Professor R. A. Lester has, e.g., expressed skepticism of both data and analysis. See his comment and Ross's reply, *Quarterly Journal of Economics*, **62**:783-791 (1948).

8

Collective Bargaining—Scope and Breadth

Collective bargaining between labor and management concerns itself with a multitude of matters beyond the traditional scope of wages and working conditions. We have already noted in Chapters 6 and 7 that unions are interested in a wide variety of factors which directly or indirectly concern wages and working conditions. Are there any limits to this union interest? Is there anything which is a purely employer or management function or prerogative? These questions are explored in the first part of this chapter.

Related to the scope of collective bargaining *within* the plant is the breadth of bargaining in terms of area or units covered. In the second part of this chapter we shall examine the nature and causes of multi-unit bargaining—that is, collective bargaining involving a union or unions and two or more plants in the same negotiations.

Unions and Managerial Prerogatives

One of the several disagreements which marred President Truman's ill-fated labor-management conference of 1945 involved the question of managerial prerogatives. Employer representatives demanded that labor agree to a "listing of specific management functions." Union representatives refused "to build a fence around the rights and responsibilities of management on the one hand and the unions on the other."[1] Except for the issue of union security, to which it is closely related, probably nothing in industrial relations produces so much emotional conflict, so much heat and so little light as that of managerial prerogatives and the relation of unions thereto.[2]

The Meaning of Managerial Prerogatives

Managerial prerogatives mean many things to many people. For the most part, however, the term is usually used by the group in society who may be termed the "professional managerial class." These are the managers of large corporations as distinguished from the stockholders who are the owners. They regard themselves as a group set apart from both labor and ownership. In a very real sense their concern with defining prerogatives and functions is part of their struggle for status and recognition—a struggle which is as important to them as the struggle for recognition from management is to union leaders.

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[1] U. S. Department of Labor, Division of Labor Standards, Bulletin No. 77, *The President's National Labor-Management Conference, Summary and Committee Reports* (1946), pp. 56–57, 61.

[2] Most light on this issue comes from Professor Neil Chamberlain's fine book, *The Union Challenge to Management Control* (New York, Harper and Brothers, 1947).

Despite attempts of management to define its functions, one encounters no clear pattern of practice. In Chapters 6 and 7, we found that unions have been able to recognize, control, or show an interest in, a wide variety of actual managerial problems which related to both the wage and non-wage aspects of collective agreement. Thus, unions assisted in advertising and distribution; affected price policies directly or indirectly; controlled or limited entrance to the trade; acted as employment agencies or otherwise controlled hiring; affected the rate of technological advancement and, therefore, affected management organization of the factors of production; and in other ways participated in what management traditionally likes to consider its proper functions. Obviously, a definition of managerial functions which would have any real meaning would be very difficult.

In large corporations where the managerial class is most clearly prominent as a distinct entity, the issue of managerial prerogatives is most intense. For the most part, these organizations were unionized not earlier than 1937. The issue of managerial prerogatives is, therefore, part of the problem of management and labor learning to live with one another. That the issue should be a live one fraught with emotion is also not surprising. For in a very real sense, the union is a management-regulating device. The entrance of the union involves, under any circumstance, a checkrein on the freedom of management to act as it pleases. It is not difficult, therefore, to understand the feeling behind such statements as "Protection of management rights is not a matter of defending technical legal rights alone: it is simply and fundamentally a matter of *protecting the freedom and authority that management must have if it is to discharge its responsibility of managing the business.*"[3]

If, however, one can understand or even sympathize with the emotional content of this viewpoint, one must also note that it is, in its logic, incompatible with collective bargaining. For the "freedom and authority" which management wants to manage its business inevitably means, at one point or another, freedom and authority to act in matters in which the union cannot permit the employer to act if it is to remain in existence. Moreover, from a public policy point of view, it is difficult to understand why such freedom and authority should be restricted to a particular group of persons who may be defined as industrial managers.[4]

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[3] Lee H. Hill and Charles R. Hook, Jr., *Management at the Bargaining Table* (New York, McGraw-Hill Book Company, 1945), p. 58. Italics are in the original.

Instead of attempting to define managerial prerogatives, it might be better to realize that collective bargaining is a form of management in which workers through unions do actually participate in management. This is true despite the fact that most unions disclaim any desire to participate in management as vehemently as management denies the right of labor to participate in management. Looked at, however, in the light of the vast participation of unions through collective bargaining machinery in activities which directly or indirectly affect all phases of company management, there is already labor participation in management. The extent to which this participation is likely to expand or to which it is socially desirable remains to be seen. Nevertheless, it is difficult to disagree with the statement that "the roles of management and union in the large corporation cannot be defined by a differentiation of spheres of mutual or exclusive interest in the operation of the business."[5]

Solution of the problem of the extent of union participation and influence in management is one of the great problems of our time. Any attempt to delineate the respective functions of management and unions would not only fail to succeed; but in addition it would indicate a misunderstanding of the fact that the entire issue of managerial prerogatives is merely a surface manifestation of the central issue, namely the role of unions in our society. One may therefore agree with the view (often expressed in anger or sorrow by businessmen) that there are in fact no limits to union interests in management. Union penetration of former managerial prerogatives is likely to be greatest in the areas most closely associated with industrial relations. Personnel management is thus today much less a sole management function than is business finance. Since, however, industrial relations affect all aspects of a business, union interest in corporate financial methods should not be surprising. Nor is such interest new. The railroad unions, for example, have criticized financial methods of railroads, charging that they carried an oversized bonded indebtedness which tends to siphon off earnings and thus to permit the railroads to plead inability to pay wage increases. Many other examples could be cited (as they have been in Chapter 7) involving production, sales, engineering, and other management functions in which unions have taken an effective interest.

The findings that there are, theoretically at least, no limits to union interest means that there are no purely management functions. That

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[4] Neil Chamberlain, *The Union Challenge to Management Control* (New York, Harper and Brothers, 1947), p. 51.

[5] Neil Chamberlain, *The Union Challenge to Management Control* (New York, Harper and Brothers, 1947), p. 257.

implies neither that tomorrow may find unions sitting at managers' desks, nor that union interest in management is either good or bad from a social point of view. What it does mean is that the logic of the situation often compels unions to take a broad interest in management; that this interest is often taken at management's behest, but more often with management opposition; and that apparently this trend is likely to continue. And one reason why the trend is likely to continue is that multi-unit collective bargaining requires an ever-increasing union knowledge of, and interest in, the problems of the industry, or segment thereof, with which it is dealing.

Multi-Unit Bargaining

In a number of industries, collective bargaining is on a multi-unit basis, i.e., the bargain covers more than one plant. Such bargaining may take many forms.[6] One, for example, occurs when a single management controls two or more plants which are organized by a single national union. Negotiations between the United Automobile Workers (CIO) and the General Motors Corporation, between the United Steelworkers (CIO) and the United States Steel Corporation, or between the United Electrical, Radio and Machine Workers (CIO) and the General Electric Corporation are three of the best known examples of this type of bargaining. All three negotiations are between one management and one union, but they each establish basic wages and employment conditions for many separate plants throughout the country. Moreover, the settlements reached in these bargaining conferences, as was noted in Chapter 7, provide the key wage bargains for the economy.

A second type of multi-unit collective bargaining—and the type around which most discussion has centered—involves bargaining between one or more national unions and a representative of two or more managements in a single industry. For discussion purposes, such bargaining is usually subdivided on a geographical basis into local, regional, and national types. Local multi-unit bargaining is by far the most common. It occurs in service industries of many kinds, building construction, amusements, retail stores, clothing, and many other industries in which the competitive market is predominately local.

Regional multi-unit bargaining is frequently an extension of local bargaining to cover industries, the product market of which has expanded beyond a locality. Since collective bargaining tends to coextend with the product market, this development is to be expected. Among the industries in which regional multi-unit bargaining is common are pulp and paper, lumber, nonferrous metal mining, maritime and longshore work, over-the-road trucking, textiles, and shipbuilding.

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[6] This section is based on an unpublished study prepared by H. R. Northrup for Industrial Relations Counselors, Inc.

In some cases it is not possible to distinguish clearly between local and regional bargaining. Thus the New York shoe market negotiations cover local metropolitan plants—but the local industry is really a regional one. Likewise, regional bargaining merges with national bargaining. Collective bargaining in anthracite coal is the best example. The entire industry is included, but it is all located in a relatively small region of Pennsylvania.

The third geographic subdivision of multi-unit bargaining between one or more trade unions and two or more employers is national collective bargaining. Such bargaining is frequently termed "industry-wide" bargaining, but the latter term is inaccurate in most cases. For example, the national agreement between the Stove Manufacturers Protective and Development Association and the International Molders and Foundry Workers Union (AFL) now covers less than 20 per cent of the stove industry. Even the widely known United Mine Workers bituminous coal industry negotiations or the bargaining in the railroad industry, each of which is national in scope and very inclusive, are not actually completely industry-wide.

National collective bargaining is, of itself, divisible into two groups. One is the common type which is found in bituminous and anthracite coal, the various glass industries, pottery, stoves, railroads, and men's and boys' clothing. In these instances, a sizable segment of an industry throughout the country bargains with a national union or unions. Usually in such cases regional agreements, following the course of the product market, have expanded to national coverage. The gradual extension prior to World War I of bituminous coal bargaining from local areas to districts and hence to region-wide agreements, climaxed by the "central competitive field" agreements covering mainly Pennsylvania, Ohio, Indiana, and Illinois, the disintegration of this system in the 1920's because the unionized mines could not compete with the non-union southern mines, and finally the rise of national bargaining after 1934 afford the most vivid and well-known example of this development.

Railroad history provides another example. Single railway system bargaining developed, under the impetus of union "concerted movements," into regional conferences; thence, during World War I, when the federal government took over the railroads, national bargaining was adopted. It relapsed into regional bargaining in the early 1920's, but national bargaining was again revived by the railroads in 1931 for the purpose of securing nation-wide decreases. Since then, national bargaining has continued.

The railroad and bituminous coal situations have one significant difference which derives from the structure of their respective unions. Bituminous coal deals with one industrial union. Its negotiations settle matters for all employees at one time. Railroads deal with twenty-odd craft unions. On most occasions the railroad unions have split into two, and more recently into three, groups. National conferences are held with each group by the carriers. A settlement with one group must be made with the demands of the others in mind, thus complicating bargaining no little.

Quite different from the bituminous coal situation, or even the railroad one, where most workers in an industry are involved in the national bargaining, is the second type of national multi-unit bargaining. Instances of this are found in the wire weaving, tile laying, sprinkler installation, elevator installation and repair, wallpaper, and retail butcher crafts. Here only one craft of workers in an industry is involved, but the bargaining is nevertheless national in scope. A small, well-organized craft, desirous of maintaining its standards throughout the country, and an important industry segment providing nationally used products and/or services participate in these multi-unit bargaining arrangements.

The distinction between multi-unit bargaining involving a single union and a single company controlling many plants and multi-unit bargaining involving a union or unions and a group of employers is often blurred and sometimes varies from year to year. The history of basic steel negotiations is illustrative. In 1946 and in 1947 the United Steelworkers served identical demands upon the various basic steel managements. In the former year, there appeared to be a good deal of collaboration among various managements. At least an impression of a united front through the American Iron and Steel Institute was given. Publicity was coördinated and union demands apparently were jointly considered.

In 1947, the situation was somewhat different. Although other members of the industry were probably kept informed, the negotiations which set the pattern were strictly between the United States Steel Corporation and the United Steelworkers. In 1947, negotiations lacked the nation-wide and industry inclusiveness of the previous year, when national collective bargaining was closely approximated.

Rubber also affords an interesting example of variation in types of multi-unit bargaining. Immediately after World War II, a bargaining structure was developed covering the Akron plants of the Big Four rubber companies.[7] The Big Four negotiated jointly with the United Rubber Workers (CIO), but only for specific items, mainly wages, and only for Akron plants. Then under union pressure, company-wide negotiations were begun with three of the concerns in 1947, and the Big Four pattern dissolved. With the union apparently aiming for industry-wide coverage, and some of the companies opposed to multi-unit bargaining of any type, future developments are uncertain.

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[7] Goodyear, Goodrich, Firestone, and U. S. Rubber.

The final type of multi-unit collective bargaining cuts across industry lines. In such cases, bargaining occurs between an employer association, or division thereof, representing numerous industries and the union or unions holding bargaining rights for the workers in these industries. Bargaining of this type has developed most fully in the San Francisco metropolitan area, and has spread to several other western cities and to the Territory of Hawaii. In San Francisco, the aggressiveness and scarcity of labor led employers to organize and bargain on an industry-wide basis as early as the "Gold Rush" days, but modern master agreements date from the union drives of 1934. Then the use of "whipsaw" tactics by unions—picking off employers one at a time in order to raise wages—led to the formation of the San Francisco Employers Council in 1938. Today the council supervises all negotiations for its members.

The Hawaiian development is modeled to a large extent on the San Francisco experience. The facts that the most important union in Hawaii is the left wing International Longshoremen's and Warehousemen's Union with which the San Francisco council deals and that industry on Hawaii is dominated by five major concerns have both influenced the growth of territorial bargaining in Hawaii.

The Extent of Multi-Unit Collective Bargaining

Table 17 summarizes the findings of a survey as to the extent of multi-unit collective bargaining. Because of the variations within industries, it has been necessary to include some industries under more than one heading.

In the left-hand column titled "single company" are listed industries in which exist significant numbers of companies having several plants which deal on a company-wide basis with unions. These industries are mostly the so-called "heavy" or "basic" industries, characterized by large investments, mass production, and a small number of large multiplant companies.

The three center columns are devoted to multi-company, multi-unit bargaining. It will be noted that in only a few industries does national collective bargaining exist. This fact runs counter to what appears to be a general impression. It may be explained partly by the confusion of national collective bargaining with bargaining between single large concerns and large unions in such industries as steel, automobiles, and electrical products.

Local and multi-unit bargaining embraces by far the greatest number of industries. Multi-industry bargaining, as in San Francisco, is confined to western areas and Hawaii.

From this table, it is clear that multi-unit bargaining in the United States embraces an enormous portion of American industry and includes

Table 17

EXTENT OF MULTI-UNIT COLLECTIVE BARGAINING

Single Company	*Multi-Company*			*Multi-Industry*
	National	*Regional*	*Local Area*	
Automobile	Anthracite coal	Fishing	Building construction	San Francisco
Iron and steel (basic)	Bituminous coal	Canning and preserving foods	Building materials	Tacoma
Electrical supplies and equipment	Railroads	Lumber	Longshoremen	Reno
Farm equipment	Pottery	Pulp and paper	Trucking (local delivery)	Sacramento
Office equipment	Flat glass	Agricultural growing and harvesting	Warehousing	Los Angeles
Rubber	Pressed and blown glass	Clay sewer pipe	Amusements and theaters	Phoenix
Meat packing	Glass containers	Cement	Hotels and restaurants	Denver
Rayon textiles	Wire weaving	Maritime (all classes)	Laundries	Hawaii
Shipbuilding	Wallpaper	Seamen	Cleaning and dyeing service	
Woolen textiles	Tile laying	Longshoremen	Building service	
Nonferrous metal manufacturing	Sprinkler fitter installation	Trucking (over the road)	Retail stores	
Tobacco (cigarettes)	Elevator installation and repair	Nonferrous metal mining	Department stores	
	Retail store butchers	Nonferrous metal and product manufacturing (except jewelry and silverware)	Charitable organizations	
	Men's and boys' clothes	Furniture	Radio parts assembly	
	Work clothes	Motion picture production	Metal job shops	
	Stoves	Hosiery	Machine	
		Cotton textiles	Tool and die	
		Woolen textiles	Pattern	
		Dyeing and finishing textiles	Foundry	
		Shipbuilding	Steel products (nonbasic)	
		Cotton garments	Jewelry and silverware	
		Leather (tanned, curried, and finished)	Newspaper printing	
		Shoes	Book and job printing	
			Women's clothes	
			Millinery	
			Fur	
			Leather products and gloves	
			Shoes	
			Confectionery products	
			Meat packing	
			Dairy products	
			Baked goods	
			Malt liquors	
			Beverages (nonalcoholic)	
			Tobacco (cigars)	
			Furniture	
			Knit goods	
			Silk and rayon textiles	
			Paper products (boxes, etc.)	
			Garage maintenance men	

a sizable majority of the 15,000,000 persons working under collective agreements.

Union Organization for Multi-Unit Bargaining

In most instances, the workers' representatives in a multi-unit bargaining arrangement come from a single national union. In a local multi-unit situation, they may represent only one local union, e.g., a local of the Teamsters' union which has contracts with delivery concerns in most cities, or the union may be represented by a "joint board" (garment trades), district council (painters), or by some similar coördinating group. The larger the unit, the more likely top national union officials will lead the union bargaining group, or will actually be the sole or principal negotiators, as they are in the coal and steel situations.

When more than one union is involved in negotiations, an organization is frequently formed, composed of representatives of all participating unions, to handle collective bargaining. The railroad unions and those in the west coast pulp and paper industry are cases in point. The former, acting mainly through the Railway Labor Executives Association, appoint *ad hoc* committees and chief negotiators. The latter maintain a permanent organization, the Pacific Coast Association of Pulp and Paper Mill Employees, which is composed of most of the 22 locals of the Brotherhood of Pulp, Sulphite and Paper Mill Workers and of the 16 locals of the Brotherhood of Paper Makers that exist on the west coast.

The American Federation of Labor's "Departments" are very active in multi-unit bargaining arrangements. The Building Trades Department, or its local branches, are usually the workers' agents in multi-unit building construction bargaining. Likewise, in the Pacific Coast shipbuilding industry, the AFL unions act through the Metal Trades Department and its local and regional branches.

Because most CIO unions are organized on an industrial basis, multi-unit situations in which they are involved do not generally encompass more than one organization. In some cases, however, jurisdictional rivalry and ideological strife have precluded coöperative union action which could expand multi-unit bargaining. Thus, the failure of the United Automobile Workers (CIO) and the United Electrical, Radio and Machine Workers (CIO) to work together prevents them from submitting joint demands or bargaining jointly with the General Motors Corporation. In this same vein, the split in the labor movement between CIO, AFL, and independent unions, and the unwillingness of these various union groups to work together often narrows the extent or scope of multi-unit bargaining. In fact, the lack of unity in the American labor movement may prove the most effective bar to the future expansion of multi-unit bargaining.

MANAGEMENT ORGANIZATION FOR MULTI-UNIT BARGAINING

Management organization for multi-unit bargaining is more varied than that of unions. In the single company, multi-plant type, for example, United States Steel, the company's industrial relations department, or those responsible for industrial relations are, of course, the representatives of management. Where more than one company is involved, however, management's representatives may be anyone from a lawyer employed by an *ad hoc* committee to a formal trade association with many full-time employees functioning throughout the year.

In industries where multi-unit bargaining has had a long history, e.g., pottery, pressed and blown glassware, or full fashioned hosiery, a management organization exists to handle negotiations. The garment trades feature numerous management bargaining associations based on the type, style, and price of the garment produced. A feature of the garment trades is that, although the bargaining is between union representatives and those of the manufacturers, the results are equally binding on the contractors, who employ a large segment of employees in the industry, but who are not represented in the negotiations.

The American Newspaper Publishers Association was originally organized for the purpose of dealing as the representative of newspaper management with the International Typographical Union. Later after ANPA became a general trade association, it delegated its labor relations duties to a Special Standing Committee. The railroads established regional associations for collective bargaining in the early 1900's after the brotherhoods inaugurated regional "concerted movements." Since railway bargaining has become national, management bargaining committees have been selected from these regional associations, although on occasions the Association of American Railroads, a national trade body, has played a slight role in bargaining conferences.

In 1946, the air lines established the Airlines Negotiating Conference to deal with the Air Line Pilots Association and possibly with other unions. In this case, multi-unit bargaining did not exist, but the employers were represented by a common agent. Later, however, the airlines discontinued this organization.

Some clay sewer pipe manufacturers bargain through a labor relations consultant. In some industries, a lawyer is, in fact, the multi-unit employer representative, operating either informally through his office or formally through an association office.

These are only a few of the many examples of the wide divergence of organization on the employer side. A striking fact is the looseness and lack of cohesiveness which features many multi-unit management bargaining agencies, often in sharp contrast to the unions with which they deal.

Reasons for Development of Multi-Unit Collective Bargaining

The reasons for the development of the various types of multi-unit collective bargaining vary from industry to industry. Sometimes the union is responsible for initiating such bargaining. In other cases the employers take the initiative. A recent poll by *Executive's Labor Letter* covering 800 manufacturing plants which subscribed to the *Letter* found that 58 per cent of negotiations leading to existing multi-unit agreements were initiated at the request of unions, 34 per cent at the request of management, and 8 per cent by mutual agreement.[8] Since this survey did not include samplings of the building construction, service, or transportation industries, in all of which management initiative and preference have been strong factors in encouraging multi-unit bargaining, it is likely that the proportion of multi-unit agreements initiated by management and the proportion initiated by unions are not far apart.

Equalizing wage costs has been an important reason why unions have supported multi-unit collective bargaining in such industries as railroads, the needle trades, and bituminous coal. In the railroads, for example, the brotherhoods found that the individual railroads were using the competition of other lines as a reason for objecting to wage increases. They, therefore, initiated the so-called "concerted movements" by which they made identical demands on all the railroads in a region. Later this regional bargaining expanded to national bargaining, first during World War I when the government acted as the railroads' sole owner; and then later in 1931 when the railroads revived it in order to get wage reductions throughout the country.

Likewise, in local trades and service industries Kerr and Fisher found that in San Francisco "wage rates tend to be uniform when the industry is covered by a master agreement and diverse when it is not."[9]

In the needle trades wages are the most important cost factor. Both the unions and the employers discovered at an early time that unionism could not exist unless it equalized wage costs. This resulted in market-wide bargaining in the various branches of the industry; since most markets are local in scope, bargaining is local in scope. The exceptions are the men's clothing industry which has expanded into a national bargaining situation, and the work clothes industries where the union label has induced various manufacturers throughout the country to enter negotiations with the United Garment Workers (AFL).

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[8] *Executive's Labor Letter* (May 13, 1947), p. 3.

[9] Clark Kerr and Lloyd H. Fisher, "Multi-employer Bargaining—the San Francisco Experience," in R. A. Lester and J. Shister (eds.), *Insights Into Labor Issues* (New York, The Macmillan Company, 1948).

The equalization of competition has played an important role in the development of multi-unit collective bargaining in lumber, pulp and paper, pottery, and the various branches of the glass industry. In some of these industries initiation came from the employers' side. In such industries as electronic manufacturing, the metal jobbing shops of various types, book and job printing, as well as others, the pattern is similar to that in the garment trades. Wages are a significant if not the most significant cost item, the plant labor force is small and the degree of competition high. All these factors tend toward the development of multi-unit collective bargaining once the workers become unionized.

In industries in which an employee typically works for more than one employer, multi-unit collective bargaining is virtually essential for both employer and union. These industries include the maritime trades, the building trades, and the needle trades. In such industries failure to equalize wages and working conditions would have the effect of permitting some employers to pay less wages to workers who also work for other employers paying higher wages. From the union point of view this is an intolerable situation and it is equally so from the employer's viewpoint. For example, in the building industry the low wage employer would be able to outbid high wage competitors and solely because the union allowed him a favorable rate. This would injure the union's relations with the high wage employers and would cause serious dissatisfaction among the employees of the latter. Hence the only solution from the point of view of both employer and union is multi-unit bargaining over the extent of the market.

Multi-unit bargaining is stimulated in the building construction industry by the practice of writing deadlines into contracts. Employers soon concluded that only by securing aid from the industry through local industry agreements could they survive when threatened with a strike and a costly deadline.

Another reason why both unions and employers prefer multi-unit bargaining is that it eases contract enforcement. From the union point of view this is very important in such industries as building or trucking or in any others where the number of employees is small and the employees bear a very close personal relation to their employers. There is a tendency in such industries, particularly when work is slack, for the employer to ask, and often to receive, wage concessions from his workers and to keep the concessions secret from the union. This enables the employer to get more work at the expense of his competitors. It also, however, takes business from the more contract-conscious competitors, and threatens the entire union wage structure. Under a multi-unit arrangement such local deals are more difficult, especially since most arrangements contain explicit provisions providing for severe penalties for any deals or kickbacks.

In nearly every case in which multi-unit collective bargaining has been tried, ease of negotiations has been a result, if not a factor in bringing it about. Again, particularly in those industries like the building trades where there are scores of small employers, many craft unions, and, therefore, many contracts, the dismal prospect of spending the bulk of one's time negotiating is a powerful spur toward multi-unit collective bargaining.

Also in the case of small companies, particularly on the industry side, it has been found that multi-unit collective bargaining affords a method by which more highly skilled personnel and greater aid can be brought to bear in collective bargaining. Small printing, metal jobbing, or garment plants do not have the funds to employ high caliber industrial relations specialists. Through an association they can accomplish this and frequently form one for precisely that reason.

One of the significant advantages which unions secure from multi-unit bargaining is protection against "raiding" from rivals. Kerr and Fisher thus describe the situation:

> The National Labor Relations Board is charged with the responsibility for determining the appropriate unit for bargaining purposes and this determines the universe within which the employees vote to select their agent. . . . A history of bargaining with an employers' association with authority to bind its members . . . is a virtual guarantee that the National Labor Relations Board will designate the multi-plant group as the appropriate unit. This is powerful protection against the incursion of a raiding competitor. When, as in a number of master agreements in the San Francisco area, the bargaining unit consists of in excess of one hundred plants, the task of organization for the rival union is virtually insuperable. It requires simultaneous organizing effort over an area much broader than the ordinary trade union can manage in order to show a majority of the employees of all the plant units voting for new representation.[10]

Railway labor relations are a good example of the importance of bargaining unit determinations and multi-unit bargaining. The National (Railway) Mediation Board consistently defines the bargaining unit to parallel the jurisdictional claims of the standard railways unions, and in addition, refuses to define a bargaining unit less than carrier-wide in scope. As a result rival unions must challenge the standard organizations on the latter's terms. In rare cases, when such challenges have been successful, the challenging union finds its task almost impossible because terms and conditions of employment are in effect fixed by national bargaining between the standard unions and the carriers. Being unable to secure the better terms they promise in organizing campaigns, non-standard unions usually do not obtain permanent footholds in the railway industry.[11]

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[10] Clark Kerr and Lloyd H. Fisher, "Multi-employer Bargaining—the San Francisco Experience," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948).

It should be pointed out that employers, as well as unions, favorably regard protection against rival unions afforded by multi-unit bargaining. The advantage to employers derives from the stability of relations and frequent moderation on the part of unions which feel sufficiently secure against rivals to display economic statesmanship.

In the instances in which a highly skilled craft has bargained on a national or multi-unit basis, such as the wallpaper craftsmen or wire weavers, the main impetus appears to derive from the desire of the union to maintain its high standards throughout the market. Because the total cost of the particular craft in comparison with the total wage bill in a given instance is likely to be small and because the unions in such instances have a monopoly of the labor supply, employers do not generally oppose such multi-unit bargaining. Moreover employers sometimes even encourage it, because it assures them a supply of competent skilled labor.

One of the most important reasons why employers have initiated or defended multi-unit bargaining is the protection it gives them against loss from strikes. In industries such as transportation, building construction, amusements, services, or occasionally retail trade, a strike can result in a loss of business which is never regained because the company deals in a perishable good or service. If the union can pick off employers of such industries one at a time, employers are, more often than not, helpless to prevent the union from achieving even the most outrageous demands. On the other hand, by forming a common front the union power is blunted because a strike means a strike of the entire industry. This in turn results in a serious loss of employment to all union members, and perhaps even more important, no employer benefits from the loss of business of an employer who is struck. The logical development of such a situation has occurred in the west coast maritime industry where strikes have been answered either by industry-wide lockouts or by the payment of benefits to struck concerns.

In lumber, pulp and paper, and other operations where recruitment of labor is often a serious problem, multi-unit bargaining stabilizes wages and prevents workers from bidding one employer against another. In such industries, employers often favor multi-unit bargaining for this reason.

Sometimes the development of multi-unit bargaining is encouraged by top union officials for the reason that it is likely to increase their control over union affairs or at the very least to enhance their position within the union. The wider the bargaining unit the more important that the bargaining be conducted by the national officials. Hence the tendency toward wider bargaining units is also a tendency toward greater national control in the unions.

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[11] H. R. Northrup, "The Appropriate Bargaining Unit Question Under the Railway Labor Act"; *Quarterly Journal of Economics*, 60:250–269 (February 1946).

Occasionally multi-unit bargaining results more or less by accident. Industries, for example, which have dealt for many years under multi-unit bargaining arrangements with the Teamsters' union tend also to conduct their relations with other employee groups on that basis. The bakery industry and the milk distribution industry are good examples.

The accident of location is also important. Multi-unit bargaining is more common on the Pacific Coast than in any other area in the United States. The importance of the maritime and lumber industries and the historical shortage of labor in that area have probably been important factors. But the development of a city-wide multi-unit system in San Francisco has encouraged a similar development in other west coast cities and in Hawaii, which probably would not have occurred had those cities not been so close to San Francisco.

Finally there is a strong philosophical or psychological element which is sometimes decisive. The automobile situation is illustrative. The strong opposition of the General Motors Corporation to a multi-unit bargaining system which would include other companies appears to be based on a philosophy which runs directly counter to the philosophy of the leaders of the UAW-CIO who have long pressed for an industry-wide arrangement. On both sides the logic of the situation does not appear to be as important as the philosophical predisposition of the contenders.

Union Institutionalism and the Scope of Union Activity

Besides engaging in collective bargaining, trade unions have provided broad welfare, recreational, and educational activities for their members and have established a variety of institutions for one reason or another. In addition trade unions have engaged in politics as was pointed out in Chapter 2. This chapter analyzes various union institutional activities, presents a categorization of unions based upon functions, and raises some questions concerning the tendency of unions to expand their activities far beyond their economic base.

Workers' Education

Workers' education has never been conducted by unions on a scale comparable to the workers' education movement in other democratic countries. The reason quite clearly is that unions in the United States have concentrated to a large extent on securing free public education for all people with the result that there has been no need for union activity in this field. For the most part, therefore, workers' education in the United States has concentrated its efforts on teaching members of unions labor history, the techniques of collective bargaining, and other subjects designed to further union activity. The most important exception has been in the case of the garment workers' unions, particularly the International Ladies Garment Workers' Union. They have developed very important education programs, principally because the members of these unions—who were originally mostly European immigrants—were keenly desirous of securing educations which they had not obtained abroad and considered the union the most friendly and best fitted instrument to serve this purpose.[1]

The educational program of the International Ladies Garment Workers' Union provides its members with the opportunity to learn almost everything from painting and sculpturing to English composition and labor history. Nearly every local union of any size in the organization has an educational director and educational committee. Approximately 800 classes in musical, recreational, and dramatic groups function annually with a total membership that ranges from 15,000 to 25,000 or approximately 10% of the union's membership. The height of the union's cultural program was achieved from the fall of 1937 until late in 1940 when the musical review, *Pins and Needles*, written and presented by the ILGWU amateur dramatists played to capacity audiences on Broadway and throughout the country.[2] The other garment trade unions have also sponsored intensive educational programs although not as spectacular as that of the ILGWU.

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[1] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 325–333.

In recent years a new movement has developed which promises to further worker education through coöperation between universities and trade unions. A number of universities have established union-management centers, part of the task of which is to aid unions in educational activities. Two-week institutes for labor union members have become fairly common in universities throughout the land during the summer months. The emphasis in these courses is definitely on labor relations rather than on more general subjects. The hope has been to teach techniques and methods of collective bargaining and elements of labor law to those who participate.

Also in recent years a number of bills have been sponsored, but not as yet passed, in Congress to establish a labor education service similar to many of the programs which now are devoted to farmers by the Department of Agriculture. Should these bills become law, a greater participation in labor education on the part of the rank and file union member would be possible.

Unions and Social Welfare Service

Social welfare programs have a historic trade union base. Many unions, particularly those among railway employees, were originally organized as fraternal and beneficial societies, and were built not only around a collective bargaining program, but also around a union insurance fund.[3] The Big Four railway brotherhoods—the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors, and the Brotherhood of Railroad Trainmen—to this day operate mutual life insurance companies which are important adjuncts of their primary collective bargaining functions.

Union Benefit Programs

In the latter part of the nineteenth century, unions also began the development of welfare programs. In 1893 the Journeymen Barbers' Union developed the first union sick benefit plan adopted by an affiliate of the

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[2] Joel Seidman, *The Needle Trades* (New York, Farrar and Rinehart, 1942), pp. 281–282.

[3] See E. C. Robbins, *The Railway Conductors* (New York, Columbia University Press, 1914), for an account of how one railroad union operated exclusively as a beneficial society and opposed collective bargaining for the first 25 years of its existence.

American Federation of Labor. By 1903, 28 AFL unions had followed suit. Death benefit programs were much more numerous and unemployment benefit plans were also being sponsored by unions at this time. All these programs were union financed and union administered. They did not develop in collective bargaining nor did they directly concern labor-management relations.[4]

The unions affiliated with the American Federation of Labor thought of their social welfare programs as adequate substitutes for governmental social insurance. Indeed, as noted in Chapter 2, one of the basic reasons why social security was adopted at a later date in the United States than in other democratic countries was that organized labor in America joined forces with employers in opposing it.

During the 1920's employers in the United States adopted widespread welfare programs. This was part of the so-called "American plan" whereby employer groups hoped that the need for unions could be avoided by establishing management-directed welfare and fair employment standards.[5] Realizing that the AFL program of union-sponsored welfare plans was inadequate, Gompers tacitly approved employer welfare programs but sought to bolster the AFL's position by the establishment of the Union Labor Life Insurance Company, a mutual concern run by AFL officials which sold group benefits to unions (as well as to other groups). The great depression of the 1930's, however, proved the inadequacy of most trade union and employer social welfare programs and forced the Federation to abandon its long opposition to government social security and minimum wage legislation.

The new unions formed during the thirties made few, if any, attempts to develop welfare programs of their own prior to World War II. Moreover, the tendency of the older unions was often to curtail the operation of their benefit plans in view of their proved actuarial inadequacy. The two exceptions were the continued promotion of sickness and life insurance by the Amalgamated Association of Street, Electric Railway and Motor Coach Employees (AFL), the first union to secure the incorporation of an employer-financed sick benefit plan in a collective agreement; and the changeover of an unemployment insurance fund, first inaugurated in 1923 through collective bargaining, to a social benefit fund by the Chicago Joint Board of the Amalgamated Clothing Workers (CIO).[6]

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[4] The literature on union welfare programs during this period is quite extensive. See, e.g., J. B. Kennedy, *Beneficiary Features of American Trade Unions* (Baltimore, Johns Hopkins Press, 1908); United States Bureau of Labor Statistics, Bulletin No. 465, *Beneficial Activities of American Trade Unions* (1928); and M. W. Latimer, *Trade Union Pension Systems* (New York, Industrial Relations Counselors, 1932).

[5] See M. W. Latimer, *Industrial Pension Systems*, 2 vol. (New York, Industrial Relations Counselors, 1933).

[6] Helen Baker and Dorothy Dahl, *Group Health Insurance and Sickness Benefit Plans in Collective Bargaining* (Princeton, Industrial Relations Section, 1945), p. 16.

The World War II wage stabilization program brought about a radical change in union welfare concepts. Whereas in 1942, the U. S. Bureau of Labor Statistics could report that "there are relatively few formal sickness-insurance plans in effect at the present time and reference to them occurs very rarely in union agreements,"[7] that agency found that "more than 3 million workers . . . were covered by some type of health, welfare, and/or retirement benefit plan under collective bargaining agreements by mid-1948."[8] Unions concentrated their efforts during World War II where the law permitted. The National War Labor Board declined as a rule to order the institution of a welfare plan, but it would approve such plans if voluntarily arrived at. With employers anxious to hold their manpower, and with the costs to the employer of a welfare program deductible as an expense against taxes, agreements for welfare programs were relatively easily secured during the war.[9]

Generally, the modern union welfare program includes provisions for health, sickness, and hospital payments financed by contributions by employers and in some cases by employees as well. Interest in pensions is increasing. Some plans are operated by insurance companies or the Blue Cross; others by unions or by unions and employers jointly. New plans must be jointly administered to conform with the Taft-Hartley Act.[10]

In details, the modern union welfare plan is substantially different from the pre-1932 version. In the first place, unlike benefit plans promoted by Gompers, the money for the support of the current welfare programs is contributed substantially if not entirely by management. Furthermore, the modern plans in contrast to those of the past are a subject of collective bargaining and part of the collective agreement. And, of course, the modern plans are mostly concentrated on the health and sickness aspects, and are governed much more by sound actuarial practice and good administration than those of former years.

The concentration of unions on health and welfare programs, while initiated by wartime wage stabilization, is fundamentally the result of the backwardness of the federal social security system. Failure on the part of government to supply protection against loss of earnings because of sickness and the failure of payments under existing social security legislation to keep pace with an inflationary rise in the cost of living have created the demand which unions are meeting for their members. Undoubtedly, many unions have been able to provide their members with health service beyond that which would be possible under federal health insurance. The effect of union welfare programs on federal health insurance is, however, once more of serious concern.

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[7] U. S. Bureau of Labor Statistics, Bulletin No. 686, *Union Agreement Provisions* (1942), p. 200.

[8] E. K. Rowe and A. Weiss, "Benefit Plans Under Collective Bargaining," *Monthly Labor Review*, **67**:229 (1948).

[9] H. Baker and D. Dahl, *Group Health Insurance and Sickness Benefit Plans in Collective Bargaining* (Princeton, Industrial Relations Section, 1945), pp. 17–30.

[10] For a description of these plans, see H. Baker and D. Dahl, *Group Health Insurance and Sickness Benefit Plans in Collective Bargaining* (Princeton, Industrial Relations Section, 1945), pp. 31–89; Adolph Held, "Health and Welfare Funds in the Needle Trades," *Industrial and Labor Relations Review*, **1**:247–263 (January 1948); and Robert Rosenthal, "Union-Management Welfare Plans," *Quarterly Journal of Economics*, **63**:64–94 (November 1947).

Today, nearly all unions support, sincerely and thoroughly, compulsory federal health insurance. Moreover, most unions have insisted that their welfare programs are mere stopgaps until a federal program is inaugurated.[11] Nevertheless, the net result of union plans may be to weaken the drive for improved social security and federal health protection. As summed up by a recent observer:

> Union leaders, it appears, are not interested in developing private group sickness and accident insurance in order to avoid public health insurance. However, one fact seems certain: that so long as there is no comprehensive federal program, unions will attempt to maintain plans now in effect and where possible extend such plans to new industries. In turn, this may mean that the more welfare plans in effect, the less union pressure there will probably be for a federal program, since the need for such a program will be less evident among union members. In line with this, there is evidence that some employers have established welfare funds with the intent of heading off a comprehensive social security act, as embodied in the 1945 Wagner-Murray-Dingell bill.
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> Similarly, a number of union representatives have suggested that insurance companies are interested in giving the best possible terms in group insurance policies in order to prove that private insurance can meet the need and that public insurance is unnecessary or more expensive. Public hearings on health insurance, as well as the personal comments of executives, indicate that many employers and insurance companies desire a more extensive trial of private insurance before resort to legislation.[12]

In the long run, however, one may well question the sufficiency of union-management welfare programs even for organized workers. Many unions already are worried about this problem. For ultimately, these plans must depend upon the profitability of industry for their success. A severe depression could, therefore, disrupt present welfare programs even though their administrative and actuarial policies are sound. The net result would undoubtedly concentrate union energy directed at welfare projects upon federal legislation.

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[11] See the statements reproduced R. Rosenthal, "Union-Management Welfare Plans," *Quarterly Journal of Economics*, **63**:86 (November 1947). The main exception to this rule is John L. Lewis who regards the miners' welfare fund as preferable to federal insurance.

[12] R. Rosenthal, "Union-Management Welfare Plans," *Quarterly Journal of Economics*, **63**:86–87 (November 1947).

UNIONS AS SOCIAL WORK AGENCIES

Union participation in social work activities has developed considerably in recent years on two fronts: participation in fund raising and Community Chest activities; and use of professional social work, particularly on a referral basis.

With the beginning of the World War II defense period, the AFL and the CIO both began raising funds for overseas war relief, the latter through the National CIO War Relief Committee, founded in 1941 under another name. In the spring of 1942 a committee representing Community Chests and Councils, Inc., approached the representatives of the two groups from the ranks of labor, asking that their campaigns on behalf of the war causes be consolidated with local chest campaigns across the country. The need was presented for complete unity in every community if wartime obligations were to be met. The proposal was accepted, and the combined campaigns in the fall of 1942, as well as the subsequent campaigns under the National War Fund in 1943, 1944, and 1945, were given wholehearted support by organized labor. All contributions were made to the local campaign organizations, and funds were transmitted from these local groups to the beneficiary agencies. Nationally, certain projects in British, Russian, and Chinese relief organizations were sponsored by labor, and amounts in these budgets were set aside for these purposes. This carried to a proper conclusion the interest of labor in particular programs of service. The necessary budget for the staff and expense of these two labor committees in their work in behalf of the joint campaigns was carried as a part of campaign expense.

Coöperation with the National War Fund led to a somewhat similar arrangement between the union groups and the American Red Cross during the war years in promoting the annual war emergency appeals. It also resulted in labor participation in Community Chest operations. Labor representatives have been appointed to chest and agency boards in increasing numbers throughout the country.[13] The Red Cross-labor partnership ended with the war, however, after disagreement as to the role of labor and the extent of labor participation in policy making.

During the war, a number of unions established referral systems to aid their members in coping with the difficult social problems of that period. In some instances, such as in Detroit[14] or in Brooklyn, special offices were opened in union headquarters and staffed by professional social workers who provided free, expert counseling and referral service.

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[13] Ellie Gutman, *Labor Participation in Planning Social Services*, Master's thesis (New York School of Social Work, Columbia University, 1945).

[14] For the Detroit experience see Ben Rubenstein, "Organized Social Work at a New Frontier," *The Compass*, **25**:11–15 (November 1943).

The union which has adopted the most complete social work program is the National Maritime Union (CIO). In collaboration with the United Seamen's Service, the NMU employed professional case workers and a staff of assistants for the specific purpose of providing social work services to its members. After the war when the expense for this program was no longer forthcoming from the United Seamen's Service, the NMU continued the program for its members until it found such services too expensive to operate.

The fact that the NMU provide the most thorough social work service of this character is, of course, not difficult to understand. Seamen being absent from home for long periods have many problems which are clearly best adjusted with the aid of professional guidance and which are not found, at least in such sharp focus, among other employee groups.[15]

Coöperative Business Enterprise

At various times during the history of the labor movement, unions have been interested in establishing coöperative business enterprises. Workers' coöperatives are of two different types—producers' and consumers' coöperatives. The former have been regarded by some unionists as the ultimate goal for which trade unions ought to strive. But this view which has been shared by intellectuals and philanthropists has not been significant since the middle of the nineteenth century. In most cases the enthusiasm for producers' coöperation has been destroyed by the practical difficulties involved. Workers not being market or production experts have often found that running a business is a difficult matter for which special knowledge is often needed.

The lack of enthusiasm on the part of the unions in recent years for producers' coöperative organizations is also attributable to the fact that a fundamental cleavage may arise between the workers engaged in the coöperative experiment and those employed in competing capitalistic enterprise. For example, if the coöperative employees by one method or another reduce costs and take business away from the shops in which other union members are employed, then the union might be compelled to decide whether it is to concentrate on expanding coöperative enterprises or on raising the wages or bettering the conditions of those employed in the capitalistic plants.

In recent years the main attempts of unions to establish producers' coöperatives have been in connection with strikes or technological development. A number of unions have opened temporary establishments to provide work for their employees who are on strike or have established plants in order to permit craftsmen whose skills are outmoded to continue to utilize them. In both cases the coöperative is a short run device and is discontinued when its purpose has been served.

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[15] For an account of some of the social work problems of seamen, see Constance Kyle, "Case Work in the National Maritime Union," *The Family*, **25**:217–223 (October 1944).

Consumer coöperatives have received the support of most labor unions in the United States but the extent and importance of labor participation is not great. Indeed, in no other democratic country has labor been less interested in establishing consumer coöperatives than in the United States. The high cost of living since World War II has stimulated a number of unions to establish coöperative grocery stores, but, as in past years, this is likely to be a temporary development resulting from peculiar conditions and is probably not indicative of a trend.

The failure of unions to establish coöperatives in the United States as their sister organizations have done in England, Sweden, and other democratic countries is primarily attributable to the success of capitalistic enterprise in the United States in keeping down prices. For example, chain stores have been able to sell food stuffs cheaper than coöperatives in many localities. In addition the population in the United States is more mobile, particularly in urban areas, than that in many European countries and a basic requirement of successful coöperation is a responsible, stable membership. Finally, unions in the United States feel that they dare not risk their funds, which are needed for the primary purposes of unionization, to establish consumer coöperatives which in the past have had a high rate of mortality.[16]

COÖPERATIVE HOUSING

Few unions in the United States have promoted coöperative housing. Prior to 1933 such union attention as was directed toward housing was primarily aimed at aiding workers to finance individual houses; since then union housing interest has been concentrating on pressuring government to expand public housing projects for the low income brackets.

The main exception to this rule has been the program of the Amalgamated Clothing Workers in New York City where the union houses 861 families in coöperative apartments. In addition the American Federation of Hosiery Workers has sponsored apartments in Philadelphia which, however, were built by the United States Public Works Administration. Undoubtedly, the high investment required for constructing urban dwellings, and the expense of necessary upkeep will continue to discourage unions from attempting to enter the building field.[17]

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[16] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 336–341; and Albert Rees, "Labor and Cooperatives: What's Wrong," *Antioch Review*, **6**:327–340 (1946).

[17] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 341–343.

COÖPERATIVE FINANCIAL ENTERPRISES

Trade unions have been interested in two types of coöperative financial enterprises: credit unions and labor banks. The former coöperative organizations, which issue shares in small denominations and require each member to own at least one share, lend funds to members in small amounts at low interest rates. The first labor credit union was established in 1915 and in 1938 the Bureau of Labor Statistics found 66 credit unions which limited their membership to members of specified labor organizations. In addition many other credit unions included union members. These are usually sponsored by unions in conjunction with other groups.[18]

Credit unions have performed an excellent service in rescuing union members from loan sharks and other exorbitant interest rate lenders. On the other hand there is a danger that intraunion politics may determine whether or not loans are granted. In view of the fact that labor credit unions have had a good record of stability, however, this danger does not seem to have been very serious.

Labor banks—that is banks controlled by unions or groups of unions—once attracted widespread attention in the United States, but that interest has all but disappeared today. The first labor bank was established by the Machinists' union in 1920, but it was the Brotherhood of Locomotive Engineers which went into banking with the greatest enthusiasm. That organization established no less than 11 banks and for a time paid more attention to banking and special enterprise than to the primary function of collective bargaining for which it was established. The collapse of the Engineers' financial empire in 1927, with disclosures of inefficiency and extravagance, gave the labor banking movement a blow from which it never recovered. In 1941 only 4 labor banks existed, 2 of which are owned by the Amalgamated Clothing Workers, as compared with 36 in 1925 when the movement was at its apex.

The motives of labor unions for entering the bank business were many. Some enthusiastic unionists thought that labor could thus drive a wedge into financial empires, secure a voice on the board of directors of industry and force the recognition of the aspiration of unions. Others thought that labor banks could finance strikes or help union employers over a period of financial strain and thus protect collective bargaining. Most of these high hopes were unfounded, if not, in retrospect, a little ridiculous. The banks of the Amalgamated Clothing Workers in Chicago and New York, two of the four which have survived, have been managed by experienced banking personnel employed by the union, have made safe investments, make no loans to men's clothing firms, give no special considerations to union officials, and have generally refrained from any of the speculations which proved the downfall of most labor banks. The main services to workers of the Amalgamated banks are small loans at low interest rates.[19]

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[18] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 342.

A Functional Categorization of Unions

Although trade unions in the United States are nearly all interested in raising wages and improving working conditions, the methods they use and the other functions which they undertake permit a broad categorization of unions which is an aid as a frame of reference in understanding union policies and the policies of industrial management which are adopted in response to union challenges of management control. The various categories are not mutually exclusive and many unions can be properly placed in several categories.

BUSINESS UNIONS

Business unions are those which are interested in improving wages, hours, and working conditions and which are uninterested in subsidiary functions such as educational programs, coöperatives, etc. Business unions accept the capitalistic system and are much more conscious of their duties to the union members than to the working class as a whole. Business unionism is typified by the building trades unions and is generally more prevalent, at least in its more exclusive forms, in the craft than in the industrial unions. Of all the types of unions, business unions are, as the name implies, more likely to approximate a business organization which is dedicated to maximizing profits as a primary objective.[20]

UPLIFT UNIONISM

Uplift unionism is more idealistic and friendly than business unionism. The typical uplift union is interested in the extracurricular lives of the members whereas business unions feel their duty is done when they negotiate and police the collective agreement. Uplift unionism sponsors educational programs, fraternal and beneficial societies, and often maintains a broad social base which identifies it with reform and radical movements.

Two subcategories of uplift unionism may be recognized—the first might be called "educational." This is typified by the garment trade unions with their broad educational programs which have arisen out of their memberships' needs and desires for further educational and cultural opportunities. The other subcategory may be termed "fraternal" and

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[19] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 344–352; and Industrial Relations Section, Princeton University, *The Labor Banking Movement in the United States* (1929).

[20] R. F. Hoxie, *Trade Unionism in the United States* (New York, Appleton, 1924), pp. 31–53. This analysis is an amplification of Hoxie's path-breaking work.

"beneficial." This is typified by the railroad brotherhoods, with their fraternal aspects which resemble masonic lodges, with their active women's auxiliary organizations around which much of the members' social lives are built, and with their large insurance and benefit departments.

It should be emphasized that the uplift unionism of the garment and railroad unions in no way lessens the interest of these organizations in better wages and working conditions. They are business unions; the significant point is that they are more than business unions.

POLITICAL UNIONISM

Political unionism is characterized by organizations which attempt to gain their goals by political means. Political unions are either revolutionary or non-revolutionary. The former are dedicated to overthrowing the capitalistic system. The most obvious example was the Industrial Workers of the World which frequently stated as its primary aim the elimination of capitalism. Less frank but equally dedicated are some of the Communist leaders of modern unions who follow Lenin's command that "The Communists must be prepared to make every sacrifice, and, if necessary, even resort to all sorts of cunning, schemes and strategems, to employ illegal methods, to evade and conceal the truth, in order to penetrate into the trade unions, to remain in them, and conduct the Communist work in them at all costs." In revolutionary unions, the improvement of wages, hours, and working conditions is thus secondary to the primary objective of revolution.

Non-revolutionary political unions are those which attempt to gain improvements in wages, hours, and working conditions by exerting pressure on political authorities in government. A good example of such organizations are unions in the government service. Not permitted to strike, and often having their wages set by law, they have been forced to adopt lobbying and other political techniques in order to achieve better wages and conditions of work. Many other unions engage in political activity for economic ends. Indeed, in view of the active intervention of the government in industrial relations and labor standards, it is difficult to understand how any unions can refrain from some political activity. The essential point here is that whereas revolutionary political unions have political objectives rather than industrial and economic objectives as their primary aim, the non-revolutionary political unions have industrial objectives as their primary aims, but utilize political techniques to achieve these aims. Thus many business and uplift unions are also, to a degree, political unions.

PREDATORY UNIONS

Predatory unionism is a perversion of trade union objectives in which the union leadership operates the organization for its own benefit. Predatory unions are usually featured by racketeering of one sort or another, sometimes in collusion with employers, sometimes preying on employers as well as on employees. It is often found in the building trades where the business agent may "sell strike insurance" and in return permit the employer to violate union rules. Another example occurred in the movie industry where the notorious Browne and Bioff, Chicago gangsters, secured control of the motion picture operators' and stage employees' union and used their position to extort bribes from prominent officials of the movie industry. In return they did not press very hard for better wages and working conditions.

DEPENDENT UNIONISM

Dependent unionism is, as the name implies, a type of unionism which exists by virtue of the benevolent assistance of employers. Most obvious of the dependent unions were company unions which have been outlawed since 1935 by the National Labor Relations (Wagner) Act. They were organized with the assistance of and the support of employers and they had no power beyond that which the employer saw fit to designate. They were, in other words, agents of the employer rather than of the employees.

Another type of dependent unionism, however, is that which depends on the union label for its existence. The union label is a device which is given to employers who meet specified union conditions and which is placed on the product of the employers, thus signifying that the product is manufactured under union conditions. The avowed purpose of the union label is to influence consumers to buy products which are produced under union conditions.

The union label is thus a method of differentiating the product. That very differentiation, however, may tend to make the union dependent upon it. If all employers have the union label, obviously it is of no consequence. The label is important only if all employers except a few have it, or if only a few employers have it. Around the turn of the century a number of unions found that the use of the label tended to hinder their organizing efforts elsewhere. These organizations exerted primary efforts as salesmen for the label and the products upon which it was placed and became less interested in organizing new employers. Occasionally this was the result of deals between employers and unions whereby an employer would agree to unionization of his employees in return for a commitment by the union that it would not grant the union label to his competitors.

> In most cases neither the leaders nor the members consciously thought the situation through in this manner, but the effect was the same. They discovered that it was comparatively simple to convince certain employers that it would be to their advantage to permit the unionization of their workers in order to be permitted to exploit a ready market through the union label. This is the easiest method of

> unionization. It simplifies the problem of organizing the workers. Instead of eating up union funds and the energies of union officials and members in extensive organizing campaigns and strikes which may not prove successful, all effort is concentrated on convincing the employer that he stands to profit by using the label. In return he must establish a union shop by requiring the workers in his plant to join the union. From the point of view of the officials and members of the union, this procedure has many advantages. The employer is now dependent upon the union label for his market; hence there is less prospect of his falling prey to open-shop propaganda, or otherwise risking a rupture with the union. Not needing to carry on organizing campaigns and not fearing surprise assaults, the union devotes its funds to advertising and boosting the label.[21]

As this process continued, the unions which sponsored labels often found that their very existence depended upon sale of labels. They lost capacity to organize the unorganized; thereupon their failure to do so resulted in the rise of dual unions or the overthrow of the existing union administration and the supporting of a new one which was interested in organization rather than in dependence upon the label. For example, the Amalgamated Clothing Workers was organized in 1914 because the leadership of the United Garment Workers, from which the Amalgamated seceded, was not interested in organizing men's clothes, but was content to concentrate its efforts in the work clothes industry where the union label insured its existence.[22]

The Scope of Union Activity

An examination of the proceedings of union conventions and of the labor press will reveal that there is scarcely a question of public interest on which unions at one time or another have not taken a position. This fact combined with increased union activity in politics and in a wide periphery of institutional matters raises the question of whether there are properly limits to union activity in extraneous or non-industrial matters.[23] The problem arises primarily because the average worker joins the union in order to make the union his spokesman and representative in the industrial relations field. At the same time there is little evidence that the union is also made the spokesman in non-industrial matters which include such things as American policy on Palestine, the desirability of the partition of Ireland, whether Trieste should be awarded to Italy or Yugoslavia, partisan political questions and a host of other matters, domestic and foreign.

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[21] David J. Saposs, *Left Wing Unionism* (New York, International Publishers, 1926), pp. 106–107.

[22] Joel Seidman, *The Needle Trades* (New York, Farrar and Rinehart, 1942), chap. 6.

[23] For a clear analysis of this question by a union man, see Will Herberg, "For 'Limited' as against 'Total' Unionism," *Labor and Nation*, 1:51–54 (1946). See also the comments on this article by H. J. Lahne, *Labor and Nation*, 1:61–62 (1946).

It may be argued of course that since these matters are decided by a majority vote in the more democratic organizations, and since no individual is bound by any such action of the union, there is no reason for complaining or worry.

These replies, however, miss the point. Democratic government limits majority action by setting bounds beyond which the majority cannot inflict its will on the minority; and secondly, although the individual worker is not bound by certain union actions, the fact remains that the union speaks in the name of the individual worker and uses the union treasury to which all members have contributed.

The line between what may be considered the proper sphere of activity of unions and that beyond which unions should not traverse is of course not precise. Union administrative, educational, organization, and probably welfare, activities are closely related to the central industrial purpose of unionism. Union endorsement of the aspirations of people in faraway lands is quite far removed from the central purpose, however much the individual union members may sympathize with, for example, the desires of the East Indonesians to establish an independent republic. Between those extremes it is all a matter of degree. There are no hard and fast rules.

"Any person with sufficient ingenuity can make out a case 'proving' that the state of affairs in Central Tibet is directly related to the New York Bookbinders . . . ."[24] If, however, one accepts as the criterion of union activity, the relevance of the matter to the central purpose of the union, namely to function as a collective bargaining agent for employees in their dealings with employers, then the absurdity of bringing a wide periphery of interests within the union scope of activity is clear.

Besides raising questions which involve the rights of members to refuse to be committed by extraneous union activity, such activity often has disastrous results on the unions. Within an organization, debate on extraneous matters leads to divisions which cause a weakening of the union and a consequent decline in its effectiveness as a collective bargaining agency. Overpreoccupation with politics by a union is particularly ill-advised if the organization is to retain its cohesiveness and its effectiveness in its field. This, of course, does not mean that unions should remain out of politics. We have already noted that the intervention of government in industrial matters is already so great that no union can safely remain aloof from political issues which affect it. On the other hand, however, the subjection of collective bargaining activities to political activities converts the union inevitably into a second-rate collective bargaining organization in terms of effectiveness.

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[24] Will Herberg, "For 'Limited' as against 'Total' Unionism," *Labor and Nation*, 1:52 (1946).

It should be noted that the viewpoint expressed here is based on the belief that a union is fundamentally a collective bargaining organization and not an organization which should attempt to meet the needs of the workers in all aspects of the workers' lives. If, however, the latter viewpoint is taken, then the union is a way of life for the workers, and everything, no matter how remote from industrial relations, falls within the proper sphere of union activity.

The viewpoint that unionism is a way of life for the masses is consistent with the theory of the class struggle. It is, however,

> utterly incompatible with the notion of a free democratic society, which cannot tolerate such total claims on the part of any individual or group. Democracy means *pluralism* if it means anything at all, the wide distribution of power and responsibility, with *various* organizations embodying and championing the multifarious interests of men in social life. The idea of one great overall organization representing the total interests of its members is essentially totalitarian. It cannot escape anyone how closely the formula "everything in and through the movement" parallels the notorious formula "everything in and through the state," and how easily one turns into the other when, as in the old syndicalist dreams, the "movement" becomes the state.
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> It is not to the advantage of freedom and democracy for one institution to try to absorb all interests and activities within itself. Nor is it good for the institution either, if the institution is a *bona-fide* trade union. At any rate, this "total" conception of unionism is as completely at variance with the ideals and traditions of American labor as it is with those of democracy. Few American trade unionists would care openly to avow it, however much their thinking may tend in that direction.[25]

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[25] Will Herberg, "For 'Limited' as against 'Total' Unionism," *Labor and Nation*, 1:52 (1946).

Part IV

ECONOMIC THEORY OF LABOR

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The Supply of Labor

Wages are the price of labor, and in the absence of control, they are determined, like all other prices, by the interaction of supply and demand.[1] However, the demand and supply for labor differ in important respects from the schedules considered in the theory of market price for ordinary commodities. The peculiarities of the demand for labor will be the subject of Chapter 11. In this chapter, we shall be concerned with the nature of the supply of labor.

Definitions and Concepts

The first question that naturally arises in a discussion of labor supply is: *what* is supplied to *whom?* Economists, prone to deal in generalities, speak of *the* supply of *labor*. Actually, there are many supplies of labor corresponding to the thousands of types, skills, trades, professions, and abilities characterizing the individual members of the labor force. But because the baker and the banker, the actress and the mechanic, all work for a salary or wage, the economist lumps them together in the all-inclusive term: "labor supply."

This group is heterogeneous, not only because of the great variety of types of workers which it includes, but also because within each class of workers, considerable variation will exist in individual efficiencies. These variations in type and efficiency of labor are important for some purposes of theoretical economic analysis but can be ignored for others. For example, in the next chapter, we shall consider the general equilibrium of demand and supply for labor in the economy as a whole. The notion of such a general equilibrium would be extremely difficult to grasp if the labor market were viewed in its full complexity. Therefore, for the sake of logical presentation, the assumption will be made that labor is homogeneous (i.e., that labor is all of the same type and skill). On the other hand, when we study the nature of wage differences, and non-competing groups in the labor market, major attention will be afforded to variations in type and efficiency of worker.

Thus, what labor supply is conceived to be must often depend upon the nature of the problem under discussion. For many problems of general equilibrium, it is convenient to think of an hour's work of average labor as contributing one "efficiency unit" of effort in production. A worker who is twice as efficient as average thus would supply two efficiency units, and, *ceteris paribus*, would receive an equilibrium wage twice as high as the average worker.

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[1] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 1.

Labor problems are essentially problems arising out of the use of (or frequently the failure to use) labor. Therefore, it is important to consider *to whom* labor is supplied. Supply can be considered from four points of view:

1. The supply of labor available to an individual firm. This may be large or small, complex or relatively homogeneous, depending upon the size of the firm, the ramifications of its operations, and the diversity of its products and plant locations. The labor supply of the United States Steel Company, for example, would represent a cross section of the working population. It would include miners, merchant seamen, scientists, bookkeepers, salesmen, in addition to the great variety of skilled and unskilled workers who are required to operate modern steel rolling mills and blast furnaces.

2. The supply of labor available to an industry. An industry may be defined, for our purposes, as a group of firms producing approximately the same product. The supply of labor to an industry will ordinarily represent a broader class of skills than the supply of labor to an individual firm, because of the variation in methods of production used by firms making the same product in different parts of the country. The supply of labor to an industry may, however, be quite limited if the industry draws upon a relatively scarce type of skilled labor. For example, there are comparatively few qualified violin makers in this country. Consequently, the supply of labor available to this *entire industry* in the United States is probably less than the supply of labor available to an individual firm in other industries (such as, for example, the United States Steel Company).

3. The supply of labor available to a particular locality. This will represent workers of all types employed in a variety of industries within the particular locality. Unless employment in the locality is highly specialized, the supply of labor will normally include a greater variety of skills and classes of workers than either the supply of labor to an industry or to the average firm. Availability of new workers will depend upon the mobility of workers from other areas, and upon the extent to which persons in the area, not normally members of the labor force, can be induced to enter employment.

4. The supply of labor available in the economy as a whole. This is *the* labor force, including workers of all types in all industries in all sections of the country. Since immigration is relatively unimportant, the availability of additional workers in the short run will depend upon the

extent to which persons not ordinarily part of the labor force can be attracted into employment.

Characteristics of the Supply of Labor

The supply of labor is peculiar in a number of respects. Ordinarily the seller of a commodity has no further connection with his product after he has concluded a sale. But the worker who sells his labor must accompany his "service" wherever the employer wishes to use it. For this reason, the conditions under which labor will be employed are as important to the worker as the price which he will receive for his labor.

Labor is a highly perishable commodity. An hour of labor offered on the market but not purchased by employers is irretrievably gone. It has no market value. Consequently, the worker who must bargain for employment individually with employers is in much the same position as a dealer who is left at the close of day with a highly perishable stock of fruits and vegetables which he knows will not last until the following day. Each is highly anxious to make a sale, and because buyers recognize the seller's predicament, the terms of any sale which is concluded are likely to be unfavorable to the seller.

It might be thought that the worker can move to other areas where labor may be in more demand and thus obtain a better price for his labor. But here we are met with a further peculiarity of labor supply—in comparison with most commodities, it is highly immobile. Indeed, it has been said that labor is, of all forms of baggage, the most difficult to transport! In part, such immobility may be attributable to employee ignorance. The average worker is not in a position to know that the wage is 10 cents an hour higher in Oshkosh or 15 cents an hour higher in Kalamazoo. Public employment exchanges have attempted to keep workers informed, but it is doubtful whether most workers are aware of available data on employment opportunities. Moreover, mobility involves cost and inconvenience. Few people will break up their homes, and disrupt long-established relationships with friends, church, and community solely to take advantage of a slightly more remunerative position in some distant community.

The older the worker, the greater his immobility—a highly significant fact in view of the increasing average age of our working population. Not only is the older worker more likely to have formed firm relationships in his community which he will be reluctant to sever, but also, his very age makes it more difficult for him to obtain work elsewhere. Moreover, at his current employment, he may have the benefit of seniority in layoffs and promotion. Even though he may be forced to accept a wage reduction as a condition of retaining his current job, he may well consider this preferable to a risky search for employment in other plants or localities.

Labor's characteristics of perishability and immobility are peculiar only when labor is compared with produced commodities traded in the market place. These attributes are not unusual when labor is compared with other original factors of production. Land, for example, is even more immobile than labor. All factor services (land, labor, and capital) are perishable. The owner of a machine or of an acre of land who cannot sell its services on a particular day loses that day's revenues irrevocably. But it is obvious that there is a difference between the bargaining positions of the owners of these factor services and of the owners of labor power. Except in extreme depression, owners of land and capital usually have sufficient resources so that they are not compelled to throw the services of their factors upon the market for whatever price they may bring. However, the average worker normally has only a small amount of savings. As a consequence, obtaining employment becomes a matter of necessity to him, and to those who are dependent upon him for their subsistence. Consequently, in the absence of union organization, minimum wage legislation, and unemployment insurance, the average worker can be compelled to accept a very low wage because of the weakness of his bargaining position.

Variations in Labor Supply

Labor supply is subject to a diversity of influences. Moreover, some influences will affect one element in labor supply (such as hours of work) without affecting another element (such as number of workers available). It is therefore useful to distinguish on the one hand the various *causes* of variations in labor supply and on the other hand the *components* of labor supply which are subject to variation. We may then select the particular relation between cause of variation and components of labor supply which we wish to study.

The components of labor supply are number of workers, hours of work (i.e., length of workday and workweek), and efficiency. Causes of variation in labor supply include variations in the wage rate, family income, willingness to work, physical strength of the worker, conditions of work, and similar factors. A rise in family income, for example, may influence all three components of labor supply. A rise in family income may make it possible for Johnny to go to college, thus reducing the number of men available for work; it may enable the family breadwinner to buy a cottage at the beach and therefore interest him in securing a reduction in the workweek so that he can spend his week ends at the beach; and it may enable him to eat better and to see the doctor and dentist more regularly so that his physical efficiency will be improved.

In the following discussion, we shall be primarily concerned with all three components of labor supply, but with only one of the causes of variation: the wage rate. Holding the other causes constant (with the exception of family income), and changing only the wage rate, we shall attempt to ascertain how the amount of labor supplied will vary. The variations in labor supply may be considered from either the short-run or long-run point of view.

The short-run supply of labor may be defined as the schedule of the varying amounts of labor that would be supplied at varying wage rates. Geometrically represented, the schedule is a curve on a diagram on which the wage rate is measured along the ordinate (Y axis) and the number of workers, or units of labor, is measured along the abscissa (X axis). (See Fig. 3.) The short-run schedule is drawn up on the assumption that population remains constant. Population growth enters into the long-run supply curve which will be discussed later in this chapter.

Classification of Variations

There is probably more careless use of terminology in discussions of variations in labor supply than in any other phase of labor economics. The confusion arises from a failure to distinguish properly between a shift in the entire supply curve and a movement along the curve. The former should be referred to as a "change in labor supply," since "supply" means the whole schedule. The latter should be designated as a "change in the amount of labor supplied," that is, a movement from one *point* on the supply curve to another. This distinction will be clarified if variations in the availability of workers, labor time, and labor efficiency are considered from the viewpoint of whether they do, or do not, involve an actual shift in the supply curve:

1. A change occurs in the number of workers available in the market.

a. Such a change may be attributable to factors other than a variation in wage rates. For example, war demobilization added millions of GI's to the ranks of the labor force. Where the change in numbers of workers is attributable to non-wage causes, the whole supply schedule of labor shifts its position, either to the right or to the left, depending on whether there has been an increase or decrease in the number of workers available at given wage rates.

b. Additional workers may be induced to enter the labor market by the attraction of high wages. To the extent this is true, there has been a movement along a given supply curve.

2. A change occurs in hours of work.

a. During World War II, hours of work of non-agricultural employees increased from 41 hours in 1940 to a peak of more than 46 hours per week in 1943.[2] In part, the willingness to work these longer hours was motivated by a desire to bring the war to a speedy and successful conclusion. That is, the motive of patriotism would have actuated workers to accept some lengthening of the workweek with no increase in hourly wage rates. To the extent this was true, there was a shift to the right in the labor supply curve.

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[2] J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 559.

b. On the other hand, to the extent that longer hours of work were forthcoming only in response to higher wages, there was a movement along a given supply curve. The degree of increase in wage rates required to obtain a given increase in hours of work would be reflected in the *slope* of the labor supply curve, rather than in a *shift* of its position.

3. A change occurs in the efficiency of workers.

a. Since the employer is interested in purchasing effective labor effort, rather than mere numbers of men or hours spent in a factory, an increase in efficiency is just as important to him as the availability of additional workers. If, because of a scarcity of jobs, workers generally are willing to put forth extra effort to obtain and to retain employment, the supply curve shifts to the right.

b. On the other hand, if additional efficiency is forthcoming simply as a result of a piece rate system which rewards additional effort by premium pay, there has merely been a movement along a given supply curve.

If the reader will endeavor to grasp the distinction between a change in labor supply and a change in the amount of labor supplied, he will find that the subsequent discussion of supply and demand for labor will be much more understandable. The same distinction in terminology, of course, applies to shifts of the demand curve for labor and to movements along that curve.

The Supply Curve of Labor to the Firm

The supply of labor may be considered in relation to a particular firm, an industry, a locality, or the economy as a whole. The last three types of supply curves are "objective." That is, they represent the "actual" changes in supply of labor which would accompany given changes in the rate of wages, if such variations in supply could be isolated from the general flux in the labor market and measured. The supply curve of labor to the individual firm, however, is of quite a different nature. The supply curve of labor to the individual firm, as it is relevant to many problems of economic theory, is a subjective concept, not an objective fact. It represents the *expectation* of the individual employer as to what the relationship of wage rates and labor supply *will be.* Analysis of entrepreneurial actions in the field of labor—as in economics in general—depends on understanding the subjective estimates of the employer as to the interrelation of costs, prices, and other variables. Just as the marginal revenue curve indicates entrepreneurial anticipations as to future revenues, so the supply curve of labor to the individual firm represents the employer's estimates as to what wage rates he will have to pay to obtain varying amounts of labor.

Of course, we could draw up an objective supply curve of labor for the individual firm. The slope of such a curve would reflect, among other things, differences in worker preference for specified combinations of money income and working conditions, attachment of workers to a familiar workplace or residence, and the size of the firm in question.[3] It is more useful, however, for most economic problems to draw up a hypothetical curve analogous to the demand and marginal revenue curves which represent entrepreneurial expectations. These expectations will be derived in part from past experience, and therefore many of the elements which would determine the shape of the objective supply curve will enter into the employer's estimation of the shape of the supply curve of labor as he imagines it to be.

Because the supply curve of labor to the individual firm reflects the estimates of the individual employer, its slope will depend upon the size of the particular firm involved. A very large firm may have to recognize that any attempt by it to obtain more labor is likely to affect the prevailing wage rate in the locality. In order to obtain 1000 more workers in a local labor market where there may be only 10,000 qualified workers available in all, a large firm will have to raise wage rates sufficiently to induce workers to leave other jobs. Workers will be reluctant to leave jobs in other firms without such an inducement, since by leaving their current employment they are likely to lose seniority rights and preferential status with regard to future promotion, health benefits, pensions, and so forth. But when the large firm offers higher wages to attract additional workers, this is likely to produce an increase in wage rates in the community generally, since other employers will also find it necessary to raise wages in order to induce employees to remain. The large firm is thus placed in such a position that any increase in rates it may offer to attract additional workers will likewise have to be offered to all employees already on its own payroll; for if other employers raise rates in retaliation, the large firm would not be able to hold its own employees at lower rates. Moreover, if the workers in the large firm are organized, the union will undoubtedly require uniformity of pay among employees of the same skill.

The result is that the addition to the total labor cost of the firm incidental to the employment of an additional worker will exceed the direct labor cost or wage paid to that man. In technical language, this means that the marginal cost of labor (i.e., the addition to the total cost of labor attributable to the addition of one more unit of labor) will exceed the supply price of labor (i.e., the wage offered to the additional worker). Assume that the going rate for labor in the firm is 80 cents an hour and that 100 men are employed at that wage. In order to attract additional workers, the wage paid to new workers has to be raised to 1 dollar. The supply price of additional labor as indicated by the labor supply curve therefore will be 1 dollar. But if, as a result of this rise in the wage, all workers already on the payroll have to be given an increase from 80 cents to 1 dollar an hour, the additional cost of 21 dollars (100 × \$1.00 + \$1.00 − \$80.00) attributable to hiring an additional worker will be substantially in excess of his wage (1 dollar).

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[3] L. G. Reynolds, "Some Aspects of Labor Market Structure," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 278.

Where firms are large, it is unlikely that the supply curve will have the same shape when we "look up" the curve as when we "look down" it. The problem is similar to that raised by the interaction of price changes in a product market in which there are few sellers. When a large firm changes wage rates, other firms in the area or industry may be induced to follow suit. If the employer imagines that every wage increase initiated by his firm will be duplicated by other firms drawing on the same labor market, then his supply curve will be a small-scale replica of the aggregate supply curve for the market.[4] On the other hand, if he expects that other firms will not immediately follow suit, then the slope of his supply curve will be much more elastic.

Similarly, a wage reduction by the large firm may or may not be followed by other firms and the employer's expectation as to the reaction of other employers will affect the shape of his supply curve. If these expectations are such that the slope downward differs from the slope upward, the curve will have a kink at the point representing the current level of wages and employment.[5] It is evident that if the shape of the supply curve depends upon the employer's estimates not only of the behavior of workers, but also of the reaction of other employers, the supply curve may be indeterminate, or at best only a vague conjecture.

The supply curve for the small firm does not raise the same problems, because the small firm will not take account of the effect of its wage policies upon other firms in the labor market. The small firm will tend to view its supply curve of labor as being perfectly elastic over the relevant range —that is, the employer considers that he can obtain all the additional workers he may need without raising wages. His demand is so small relative to the total supply of workers available that his need for additional workers will not affect wage rates generally. This condition of perfect elasticity may also typify the supply curve for labor in a large firm in times of substantial unemployment. However, the supply curve of the small firm is likely to be perfectly elastic even if there is full employment. For even under conditions of full employment, there are always some workers leaving other employment for one reason or another, and the small firm may figure it can satisfy its needs from this pool of workers without the necessity of paying higher wages to draw men away from other firms. Consequently, if the small firm had been paying 80 cents an hour to its employees, it estimates that it can get additional workers for 80 cents and therefore the marginal cost of the additional labor and its supply price or wage will be the same. The fact that the supply curve for labor to the small firm will tend to be perfectly elastic, while the supply curve to the large firm is more likely to be less than perfectly elastic, influences their respective employment policies. This problem will receive attention in Chapter 11 dealing with the demand for labor.

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[4] L. G. Reynolds, "Some Aspects of Labor Market Structure," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 276.

[5] L. G. Reynolds, "Some Aspects of Labor Market Structure," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), p. 276.

Perhaps the most common cause of a rising supply curve for labor is the need for paying higher wages in order to attract workers away from other firms. As we have seen, in so far as this is the reason for the lack of perfect elasticity in the supply curve, it is more likely to be characteristic of a large than a small firm. But there are other conditions which can produce a rising supply curve for labor, and these are to be found in large and small firms alike. For example, an employer may have to pay penalty rates for overtime if he wishes to get more hours out of his existing labor force. Additional units of labor time have to be remunerated at a higher price which means that the supply curve for labor to the firm is rising. Another condition which will produce a rising supply curve for labor is a scarcity of qualified workers. If additional workers can be obtained at the prevailing wage, but these workers are less efficient, the firm is, in effect, paying an increased price per efficiency unit. A further possible reason for a rising labor supply curve is increasing "fringe" expenses made necessary by employment of additional workers. For example, if the only additional workers available are women, the employer may be compelled to expend funds upon separate lavatory facilities, rest rooms, and so forth. The result will be that the marginal cost of employing these additional workers will exceed the wage paid to them.

The Supply Curve of Labor to an Industry

The elasticity of supply of labor to an industry will depend primarily upon the mobility of workers who can be drawn into this industry from other industries. Because most skills in modern industry can be fairly quickly acquired, an industry can ordinarily draw workers away from other industries if it offers sufficient inducement in the form of higher wages. The supply curve of labor for an industry will ordinarily be more elastic than the supply curve for labor in a given locality, because there will be less resistance to the movement of workers from industry to industry within a given locality than there will be to movement away from, or into, the locality. The supply curve of labor for an industry will ordinarily be more elastic than the supply curve of labor for the whole economy, because it will be easier to induce employees to leave other industries to work in this particular industry than it will be to induce additional men, women, and children who are not normally members of the labor force to enter the labor market.

The supply curve of labor for an industry will be of zero elasticity—meaning that more workers would not be attracted to the industry no matter how high a wage was offered—only in the rare case when the industry uses a type of highly skilled labor which is not employed by other industries and when the skill is not one which can be easily acquired in a short period. It should be observed that even if the elasticity of labor supply to a particular industry were zero, an individual employer in such an industry might still imagine that the supply curve of labor to his firm was perfectly elastic. He might calculate that even though the industry as a whole could not obtain more workers, his own needs were so small relative to the amount of labor available to the industry that he would be able to attract a few additional workers without being compelled to offer a higher wage.

The Supply Curve of Labor to a Locality

The slope of the supply curve of labor to a locality will depend in large measure upon the nature and location of the locality in question. If a shortage of labor were to develop in New York City, additional workers would be attracted from all over the country because of the advantages (other than the job opportunity) which New York has to offer. On the other hand, if a labor shortage were to develop in a little mill town in a backwoods region, even a very high wage rate would not induce many workers to migrate there, leaving their present homes and occupations.

Many of the characteristics of the supply curve of labor to a locality are also true of the supply curve of labor to the economy as a whole, and therefore these aspects can be conveniently considered together in the discussion below.

The Supply Curve of Labor for the Economy

In the absence of union organization, the short-run supply curve of labor in the economy as a whole (as well as in a given locality) will tend to be inelastic downward, below the prevailing wage. In other words, for the reasons stated in the discussion of the peculiarities of labor supply, substantially the same numbers of workers would offer their services even at a lower rate of wages. Union organization, however, has drastically altered the bargaining position of the individual worker. When bargaining on an individual basis, the worker could often be coerced into taking employment at a low wage by the threat that if he did not accept the low rate some other worker would. But when workers are organized and are prepared to take effective action to prevent hiring of non-union workers, the possibility of "price-cutting" by other sellers of labor is eliminated from the supply situation. Union organization, in effect, makes the supply curve of labor perfectly elastic at the prevailing wage. Whereas without a union, approximately the same amount of labor would be available at a lower wage, with a union, a wage reduction by an employer is likely to cause a union strike so that *no* labor at all will be available at the lower price.

The short-run supply of labor is also likely to be inelastic above the prevailing wage. That is, a rise in the rate of wage offered will not substantially increase the number of workers available. As soon as all average workmen are employed, the amount of labor supplied can be increased only by bringing in submarginal workers, or people who are not ordinarily part of the labor force—such as women, youths, and older men. The additions which can be expected from these sources in peacetime, within normal wage ranges, are not very large. During World War II, patriotism and the lure of very high wages did attract many of these groups into the labor market. Indeed, the degree of expansion in the labor force for the economy as a whole was surprising. Yet because of the relative immobility of labor, bottlenecks continued to develop in particular areas which were unable to attract sufficient labor despite the attraction of high wages. In other words, the elasticity of labor supply was greater for the economy as a whole than it was for particular localities. Under ordinary circumstances, however, the contrary would be expected. The elasticity of labor supply in a particular locality depends on the mobility of labor both in and out of that locality and in and out of the labor force, while the elasticity of labor supply for the economy as a whole depends only upon the latter—the movement of particular groups of labor in and out of the civilian labor force.

In Fig. 3 below, the prevailing wage rate is indicated along the Y-axis while units of labor supplied are measured along the X-axis. The curve lettered SS′ represents an approximation to the short-run supply curve of labor for the economy in normal times.

Below wage rate OP, workers will leave the labor market very rapidly, preferring to collect unemployment compensation or live on savings, rather than to work for such meager wages. At and slightly above wage

OP, we may assume earnings are very low relative to the standard of living, and as a consequence, workers with families will be compelled to send their children to work at an early age. Also many women will have to work at this low wage in order to help their husbands support their families. As the wage rate is raised to a more satisfactory level, men are better able to maintain their families on their own wages. Thus, at a wage of OQ, earnings of the family breadwinner will be sufficient so that children can remain in school for more extended education, and women can remain in the home. Consequently, the amount of labor offered on the market will tend to diminish and the supply curve will slope to the left. As the wage becomes very high—as was the case during the war years—women and children will again be induced to enter the labor market.

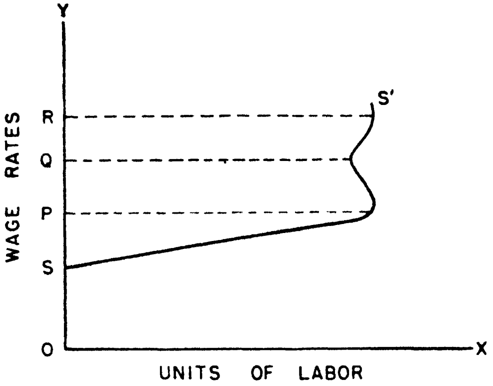

FIG. 3. Short-run supply curve of labor for the economy.

Youths will put off entering college for a few years in order to "cash in" on the high wages. Older men who were ready to retire will postpone the event in order to enlarge their nest eggs. Therefore, the supply curve will again slope to the right, as is indicated at wage OR. But again, when the wage becomes extremely high, the man of the family will prefer to send his children to school and college, and he himself will be less inclined to work long hours. As a result, there is likely to be a diminution in the amount of labor supplied, and the supply curve will slope backward to the left.

The above analysis of the behavior of the supply of labor at high wages is purely speculative. A rise in wage rates invokes conflicting responses from various groups in the population. For example, a rise in wages may enable many workers to save more and thus retire earlier, but on the other hand, it may induce men in retirement to enter the labor force for a few years in order to augment their savings. One thing, however, seems probable: above the rate at which most regular members of the labor force are willing to seek employment, the supply curve of labor for the economy under peacetime conditions tends to be inelastic.

WARTIME CHANGES IN LABOR SUPPLY

The nature of short-run changes in the composition and size of the labor force can better be understood by examining the expansion of the labor supply which occurred during World War II. Labor supply for the economy as a whole can be studied in terms of changes in the size of the civilian labor force. The civilian labor force as defined by the United States Department of Labor includes persons 14 years of age and over, (a) working for pay or profit, (b) working without pay for 15 hours or more weekly on a family farm or business, or (c) looking for work.[6] The total civilian labor force, so defined, excluding persons in the armed forces, totaled 55.9 million in 1941, of whom 5.6 million were unemployed, and 50.3 million were employed. Of those employed, 9.1 million were engaged in agriculture, and 41.2 million in non-agricultural occupations.[7] By 1946, the total civilian labor force, excluding armed forces, had grown to 57.5 million of whom 55.2 million were employed, and 2.3 million were unemployed.[8]

The greatest part of the increase in wartime labor supply came from teen age youths, women, and adult men over 50. Four million of the extra workers were youths of school and college age, 2.5 million were adult women, and 1.5 million were adult men mostly over 55 years of age.[9] From a peak level of over 8 million extra workers in April, 1945, the excess of the labor force over the projected normal two years later had been reduced to about 1.5 million workers.[10] The entrance, absorption, and exodus of these 7 million workers in the space of about 6 years represents a surprising degree of elasticity in the labor supply unlikely to be duplicated in normal peacetime.

These large-scale wartime changes in the size and composition of the labor force have left an imprint upon postwar labor supply. The postwar labor force still contained 3.5 million workers above normal among teen age youth and adults 35 years and over.[11] The youthful group—about 1.6 million in all—remained in the labor force after the war's end, partly because of the continuing attraction of high wages, and partly because the crowding of schools and colleges by veterans made entrance by youths with no war service difficult. As for the older men, most of them were accustomed to industrial hiring practices which discriminate against workers over 40, and therefore they were only too glad to seize an opportunity to work an additional few years at high wages. Most of the young women who worked in war plants left with the reconversion of plants to peacetime industry, but a considerable number of women aged 35 and over stayed on. About a half million fewer young men aged 20–34 were in the labor force in 1946 than would be expected according to normal trends.[12] This gap in the ranks of workers was largely attributable to the fact that over one million veterans of World War II were enrolled in schools and colleges under the benefits of the GI Bill of Rights. The majority of these men were receiving training which would qualify them for better paid jobs in business and the professions. Their eventual entry into the labor market may raise difficult problems of adjustment for industry and the economy.

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[6] *Monthly Labor Review*, **65**:638 (1947).
[7] *Monthly Labor Review*, **65**:638 (1947). See also Chapter 3, Table 1.
[8] *Monthly Labor Review*, **65**:638 (1947).
[9] *Monthly Labor Review*, **65**:641 (1947).
[10] *Monthly Labor Review*, **65**:642 (1947).
[11] *Monthly Labor Review*, **65**:643 (1947).

Hours of Work

The slope of the short-run supply curve of labor will depend, in part, upon the relationship between the rate of wages and the number of hours which employees are willing to work. The precise nature of this relationship has been the subject of considerable controversy. Assumptions as to its nature have had an important influence upon public policy. For example, mercantilist theorists in England in the seventeenth century believed that a rise in real wages would be detrimental to the welfare of the nation because it would decrease the number of hours that laborers would be willing to work. They reasoned that wage earners would work only sufficient hours to maintain their existing standard of living. Consequently, a rise in wages would reduce the amount of work done, and would, therefore, have a detrimental effect on the productiveness of the nation.

By contrast, our war wage policy was based on the premise that employees would work longer hours if they were paid higher wages. Industrial employees worked, on the average, five more hours a week in 1943 than in early 1940 when the defense program began.[13] Moreover, payment of time and a half for hours worked in excess of a normal 40-hour week has become standard industrial practice and has been codified in the Fair Labor Standards Act which requires such overtime rates be paid all employees covered by the Act. Premium payments for hours worked in excess of the normal workweek are intended to compensate workers for the additional burden involved in working longer hours. A longer workday or workweek not only spells greater fatigue for the worker, but also means that he will have less time to devote to his family, recreation education, and other pursuits. It is understandable, therefore, why the average employee will work additional hours only if they are remunerated at a higher rate.

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[12] *Monthly Labor Review*, **65**:643 (1947).

[13] J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 559.

But while employees normally will only work additional hours if they are paid a higher wage, a higher wage may itself make employees less willing to work additional hours! Indeed, in some instances, a higher rate of wages may actually induce them to curtail the amount of time which they are willing to spend on the job. Suppose John Doe has been working 48 hours a week as a carpenter at a wage rate of $1.50 an hour. Now his union succeeds in obtaining successive wage increases which bring his wage up to $2.00 an hour or $96.00 for a 48-hour week. At this higher income, Doe may now find he can afford to buy an automobile or a set of golf clubs. And once he makes such purchases, he will want time to use them. Leisure time now becomes of increasing importance to him. As a consequence, he may seek union pressure to gain a reduction in hours of work, or he may find excuses for not showing up at work. In other words, in the case of John Doe, carpenter, when wages have reached a certain level, further increases in wages above that level will be accompanied by a reduction in the number of hours of work offered to employers.

In the general case, whether workers will be willing to work longer hours at a higher rate of pay will depend upon the choice which each worker makes between leisure and real income. When wage rates are changed, the marginal utility of income will be changed, and this will cause workers to reconsider the particular balance they have previously maintained between work and leisure. It has been suggested by one economist that in so far as men act rationally—i.e., from fixed motives subject to the law of diminishing utility—they will, at a higher rate, divide their time between wage earning and leisure in such a way as to earn more money but to work fewer hours. The explanation offered is that, if the man continued to work the previous number of hours at the new higher wage rate, he would earn a proportionally larger income. When he goes to spend the extra money, he will want to increase his expenditures for many commodities consumed and to take on some new ones. Among these purchases, he will want to lay out part of his new funds for increased leisure, i.e., buy back some of his working time or "spend some of his money by the process of not earning it."[14]

In other words, a worker can be conceived of as having a demand not only for various commodities, but also for leisure. If this notion is expanded, it is possible to formulate more precisely the relation between wage changes and hours of work. This has been accomplished through

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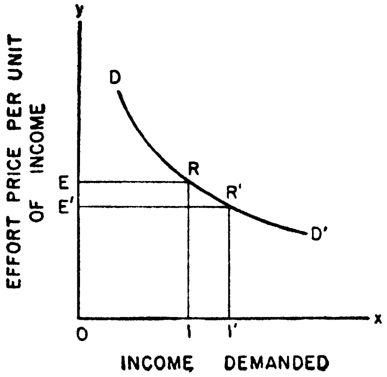
[14] F. Knight, *Risk, Uncertainty, and Profit* (Boston, Houghton Mifflin Company, 1927), p. 117.



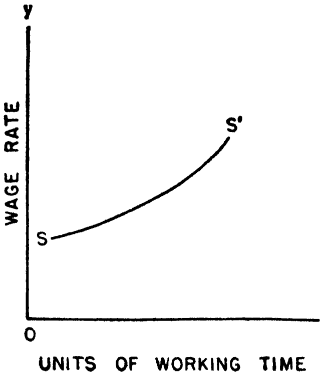


Fig. 4. (*Left*) Demand curve for income.
Fig. 5. (*Right*) Supply curve of labor.

use of the technical concept termed "the elasticity of demand for income in terms of effort."

Elasticity of Demand for Income in Terms of Effort[15]

The elasticity of demand for income in terms of effort describes the proportionate change in income demanded which will accompany a proportionate change in the rate at which units of labor time are remunerated.

The demand curve for income in terms of effort is illustrated in Fig. 4 above. It is essentially a supply curve of labor "turned inside out." There are two ways of deducing the number of hours which an individual employee will be ready to work when wage rates change. On the one hand, as in Fig. 5, we can relate the rate of wages (shown on the y axis) to the number of units of working time supplied (shown on the x axis), and draw a curve which will normally slope upward to the right. Such a curve is called the supply curve of labor. On the other hand, we can consider an individual worker as having a demand for income as compared with a demand for leisure. When the rate of wages changes, he may demand more or less or the same amount of income as he received at the previous level of wage rates. The choice he makes with regard to the amount of income demanded will be reflected in the number of hours of work which he is willing to supply at the new wage rate. A positive supply curve will be associated with an elasticity of demand for income in terms of effort which is greater than unity; while a negative supply curve for labor will be associated with an elasticity of demand for income which is less than unity.

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[15] This section represents an attempt to clarify the concepts introduced by L. Robbins in his article, "On the Elasticity of Demand for Income in Terms of Effort," *Economica*, **10**:123–129 (1930).

These relationships can best be understood by reference to Fig. 4 on page 254.

Let Ox represent the quantity of income demanded and Oy represent the "effort price per unit of income." The latter simply indicates the amount of labor time which must be expended to earn a dollar of income. Thus, if wage rates fall, we move *up* on the Oy axis, because more labor time must now be expended to earn a dollar of income. Conversely, if wage rates rise, we move *down* on the Oy axis since fewer units of working time are now required to earn a dollar of income.

If the effort price per unit of working time expended is OE, then the quantity of income demanded by the workers will be OI and the amount of work done for that income will be OERI. As wage rates rise (we move down on Oy), the amount of income demanded in terms of effort will increase—i.e., curve DD′ is downward sloping. Its downward slope signifies that as income increases (moving to the right along Ox), its marginal utility relative to that of leisure diminishes; that is, leisure becomes relatively more attractive. Therefore, the larger income is, the smaller the additional amount of it which will be demanded (in terms of labor time expended) as the "price of income" is further reduced (i.e., as the wage rate rises further).

Whether the amount of working time forthcoming at a higher wage rate will be greater or less than at a lower wage rate will depend upon the elasticity of the demand curve for income in terms of effort. As has already been indicated above, the rectangle OERI in Fig. 4 describes the quantity of work units which will be supplied when the effort price per unit of income is OE. If wages rise so that we move down Oy to OE′, the amount of working time supplied will now be represented by the rectangle OE′R′I′. Whether the increase in wage rates produced a concomitant increase in the amount of working time supplied will depend upon whether the latter rectangle is larger than the former.

Among natives in tropical lands, and among other primitive peoples, it is probably true that a rise in the rate of wages will produce a reduction in the number of hours which laborers will be willing to work. With relatively simple wants, these people are content merely to maintain their former standard of living. But this is not necessarily true of the worker in an advanced industrial society. Such a worker has a wide variety of products available for his purchase. One of the things which he may buy is leisure. Leisure, like any other commodity, has a price, and the price paid for it can be measured in terms of the amount of other components of real income—automobiles, radios, refrigerators—which must be sacrificed if the worker decides in favor of shorter hours rather than the same or longer hours at the higher wages. In other words, leisure is purchased by a sacrifice in real income. This sacrifice may be called the real-income price of leisure.[16]

When money wage rates rise (commodity prices remaining the same), the real-income price of leisure will also rise because leisure will now cost more in terms of real income sacrificed. In other words, if the employee were to work his former schedule of hours at the now increased rate of pay, he would realize a larger money income which, when spent on commodities whose prices had not changed, would afford a rise in real income. If the worker chooses to forego this rise in real income, and to spend more time fishing instead, the cost of his leisure, when measured against the real income sacrificed, will have risen.

Now when the cost of anything rises, it is not at all certain that more of it will be bought even out of an increased real income. For example, if the price of bread rises, and income remains the same, the amount of bread demanded by consumers will normally decrease. But if the price of bread rises and incomes simultaneously increase, the amount of bread purchased at the new higher level of income may or may not be larger than previously. Whether or not it will be larger will be determined by the income elasticity of demand for bread. Similarly, when, as a result of a rise in wages, other prices remaining constant, the real income price of leisure rises, the amount of leisure desired may be greater or smaller than at a lower level of wages. The determining factor will be the elasticity of demand for income in terms of effort. On the whole it seems likely that the elasticity of demand for income in terms of effort will be greater than unity[17] (i.e., as wage rates rise, the amount of working time offered will increase).

Change in Efficiency

The supply of labor can also be varied by a change in efficiency of workers. Just as an increase in wage rates may increase the amount of labor supplied by inducing additional workers to enter the market, so an increase in wage rates may increase the efficiency of a given work force. When wages are at a very low level, an increase in wages will tend to improve efficiency by contributing to the physical well-being of the workers. Workers who are well-fed and afforded proper housing facilities are capable of putting forth more effort than employees whose incomes are so low that they cannot properly provide for these basic needs. However, once wage rates reach a level at which the worker can maintain a satisfactory standard of living, it is doubtful whether further wage increases have much effect on efficiency solely by reason of their reaction on physical well-being.

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[16] L. Robbins, "On the Elasticity of Demand for Income in Terms of Effort," *Economica*, **10**:127 (1930).

[17] "The only natural deduction from the law of diminishing marginal utility is . . . that this demand curve for income must slope downwards. The elasticity of demand for income in terms of labour must be positive, but this means that the elasticity of individual supply of labour must be either positive or lie between 0 and −1." J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 98, n. 1.

However, without regard to possible improvement in physical condition, a rise in wages may induce employees to work harder. A positive relation between wage increases and increased effort is more likely to be found in piece rate industries than in industries where payment is by the hour. If the piece rate is raised, the worker can directly increase his take-home pay by producing more units of product, whereas in an industry where payment is by the hour, the worker is likely to feel that his increased effort would simply increase the employer's profit without any direct immediate benefit to himself. Thus, it is principally in industries using incentive pay plans that variations in efficiency are likely to have any close relationship to changes in wage rates. As noted in Chapter 7, approximately 30 per cent of the plant workers in manufacturing industries in 1946 were paid on an incentive basis.

On the whole, under modern industrial conditions in a high-wage economy, wage changes probably have comparatively little effect upon worker efficiency. Because of the high degree of mechanization in American industry, the speed of the production line, rather than individual worker effort, is the controlling determinant of labor efficiency.

Long-Run Supply of Labor

Long-run supply is affected by all the factors operative in the short run plus the additional element of population growth. Population growth involves the relationship between birth and death rates on the one hand, and immigration and emigration rates on the other.

The classical economists viewed the long-run supply of labor as highly flexible. They believed that labor supply adjusted itself to "the natural price of labor"—i.e., the level of real wages which was necessary "to enable laborers one with another to subsist and to perpetuate their race without increase or diminution."[18] This wage was conceived of as an equilibrium rate. If real wages rose above this subsistence level, births would increase, deaths would decrease, population would consequently expand, and with an unchanged demand for labor, wage rates would necessarily fall. On the other hand, a fall in wage rates below the subsistence level would produce an increase in deaths and a decrease in births. Marriages would be postponed and married persons would delay having children. Consequently, the supply of labor would decline below the equilibrium level with the result that wage rates would be bid up to the "natural" wage.

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[18] D. Ricardo, *Principles of Political Economy and Taxation*, Gonner ed. (London, George Bell and Sons, 1913), p. 70.

The theory was phrased in terms of a subsistence wage because of the belief, then current, that population tended to increase faster than the means of subsistence. Population was thought to double itself every twenty-five years[19]—thus increasing at a geometrical rate—while food production increased only in an arithmetical ratio. However, population was prevented from getting too far out of line with subsistence by certain "positive checks," such as vice, pestilence, war, and famine, and "preventive checks," such as postponement of marriage.

Modern population theorists look for no such geometrical increase in population growth. On the contrary, the experience of most of the older countries in Europe whose populations have neared stability indicates that the real problem may be one of stimulating population growth, rather than retarding it. It has been suggested by one writer[20] that the rate of population growth in the United States, and in other countries, can be represented by a logistic curve—that is, populations grow first at an increasing rate, then at a decreasing rate, finally approach an asymptote, and may eventually decline. The reason suggested for this phenomenon is that increasing density of population lessens fertility[21] and therefore reduces the birth rate. This explanation, however, disregards the observed fact that the most densely populated sections of most cities also have the highest birth rates.[22]

Whatever may be the explanation of the retardation of population growth in this and other countries of the world, it is generally estimated that the population of the United States will reach its maximum by the end of this century, and that thereafter it will either remain fairly stable or decline.[23] This curtailment in population growth will have far-reaching effects on the nature and size of the labor supply of the economy. The labor force in this country grew from over 20 million in 1890 to over 40 million in 1920, and to 55 million in 1940.[24] A large part of these gains resulted from natural population growth and from immigration. It now appears that these two major sources can no longer be relied upon to supply new workers. The retardation in the rate of population growth has already made its influence felt on labor supply. During the decade of the twenties, the average annual increase of the working population was about 700,000 (a rate of increase of 1.6 per cent), while in the decade of the thirties, the average annual increment had dropped to less than 600,000 (a rate of 1.2 per cent).[25] Our restrictive immigration policy, of course, makes it unlikely that any substantial number of workers will enter the domestic labor market from foreign countries.

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[19] D. Ricardo, *Principles of Political Economy and Taxation*, Gonner ed. (London, George Bell and Sons, 1913), p. 75.

[20] R. Pearl, *Biology of Population Growth* (New York, Alfred A. Knopf, 1925), pp. 11–24, 45–130.

[21] R. Pearl, *Biology of Population Growth* (New York, Alfred A. Knopf, 1925), p. 155.

[22] P. Douglas, *Theory of Wages* (New York, The Macmillan Company, 1934), p. 337.

[23] *Monthly Labor Review*, **65**:644 (1947).

[24] *Monthly Labor Review*, **65**:639 (1947).

The birth rate is to some extent affected by the rate of wages, but it is by no means clear in which direction the relationship lies. High wages afford workers the financial means to support large families; yet it is an observable fact that married couples in the high income brackets have fewer children than married couples with low incomes. While the effect of a *rise* in wage rates upon the birth rate is subject to controversy, there is considerable evidence that a reduction in wage rates and curtailment in family income tends to diminish the birth rate. The wage cuts and unemployment of the depression of the thirties, for example, discouraged marriages and induced many married couples to delay having children, because of the difficulty of supporting themselves on a low income. Because of the decline in the birth rate during these depression years, relatively small additions to the working population 14 years and over are expected until late in the 1950's. However, in the following decade, the large number of babies born during and immediately following World War II will reach the age at which they can join the civilian labor force.[26]

The long term downward trend in the birth rate will reduce the relative number of young men entering the labor force, while at the same time medical advances will enable a larger percentage of older workers to survive and therefore to seek jobs in the labor market. The proportion of persons 55 and over in the working age population is expected to rise from less than one in five in 1940 to nearly one out of every three persons in the year 2000.[27] The presence of this large number of older persons in the labor market may well create a serious problem unless industry alters its present hiring policies which discriminate against workers over 40. That older men wish to continue working and, if given the opportunity, can carry on successfully was demonstrated by our experience during and immediately following World War II. The number of men 65 and over in the labor force in April 1945 was nearly 25 per cent above normal,[28] and comparatively little change occurred in this proportion in the following three years.

While largely unrelated to changing levels of wage rates, there are other long-term trends affecting the composition of the labor force. In the first place, over a long period of years there has been a decline in the proportion of children in the labor force. This decline is primarily attributable to state child labor legislation and compulsory school attendance laws. Furthermore, the rising real income of the American worker—in part attributable to rising wage rates and in part to increasing productivity—has enabled him to give his children a longer period of schooling and thus has delayed their entrance into the labor market.

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[25] *Monthly Labor Review*, **65**:639 (1947).
[26] *Monthly Labor Review*, **65**:644 (1947).
[27] *Monthly Labor Review*, **65**:644 (1947).
[28] *Monthly Labor Review*, **65**:661 (1947).

In the second place, there has been a steady movement of women into the labor force. The wartime influx merely climaxed a movement of long development. Almost seven times as many women were engaged in gainful work in 1940 as in 1870, whereas the number of male workers increased only three and one half times.[29] Other trends were noted in Chapter 3.

Differences in Occupational Remuneration

In 1945, the president of a large business machine corporation was paid a salary of $425,548.[30] In the same year, the average annual income from salaries and wages of employees in manufacturing industries was only about $2500.[31] What is the explanation for this wide diversity in earnings? Does the variation in earnings in a capitalistic society reflect differences in ability, or are other factors responsible? The answer to these questions will not be fully understood until the demand for labor has been examined in the next chapter. However, in this section we shall begin consideration of this problem by examining the supply factors which give rise to differences in remuneration for various occupations. In the next section, we shall consider the factors which produce a diversity of wage rates for the same job in the same area or industry.

If conditions of work (other than wages) were equally attractive in all occupations, if all workers had the same mental and physical abilities, and if all occupations were equally easy to enter, then in a perfectly competitive labor market, wages in every occupation for every worker would be equal. In the actual labor market, of course, none of these conditions is present. If we remove these restrictive assumptions one by one, we shall be able to gain an understanding of the causes contributing to the differences in wages which exist in the business world.

Equalizing Differences

Not all occupations are equally attractive to workers. Therefore, even if every worker had freedom of choice as to the type of work he would perform, we would expect that certain jobs which were less attractive would have to offer higher pay in order to attract workers, while positions in which working conditions were particularly satisfactory would be able to obtain workers at lower wages. In other words, a part of the differences in wage rates which we observe in the labor market represents a factor which equalizes the attractiveness of various occupations. For example, the low salaries of college professors are partially offset by the short hours of work, the long vacations, and the opportunity for research and study. Women who work as domestics in homes frequently receive more than women who perform clerical tasks in business, because according to our social mores, servile work is looked upon as somewhat degrading and therefore additional compensation must be offered in these jobs to equalize their attractiveness with other positions which these women might obtain.

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[29] J. F. Dewhurst and associates, *America's Needs and Resources* (New York, The Twentieth Century Fund, 1947), p. 542.

[30] *Time*, **51**:75 (March 1, 1948).

[31] *Monthly Labor Review*, **60**:1331 (1945).

There are many other equalizing factors which balance differences in wages. For example, the clerk in the head office of a large company will be willing to start at a lower wage than a day laborer in the same plant, because the opportunities for advancement open to the clerk make up for the deficiency in his entrance salary. Similarly, an occupation in which there is a chance, however small, of making very great earnings—as in the practice of law—is able to attract applicants who are willing to start in as clerks at little or no wage. Hazard to life is another factor producing wage differences—the pilot who tests new planes for an aircraft company receives a very high wage in order to compensate him for the risk to life involved in his work.

Another important equalizing difference is the expense of training. The doctor expects a higher remuneration for his work than a carpenter, because the expense of his training is so much greater. Thus, a part of the higher remuneration of the professional class generally is reimbursement for the long years of study. However, as we shall see, the expense of training may create differences which are not merely equalizing, but which are out of proportion to the expense of training.

In actuality, most differences in wages in the labor market do not seem to be of the equalizing character. Indeed, they are more often the reverse. Instead of the most unattractive work being the best remunerated, it is usually the poorest paid. It is the ditch digger, the garbage collector—not the movie actor—who receives the least remuneration for his labor.

Non-equalizing Differences

Broad differences in wages prevail which bear no relation to the relative attractiveness of the work involved. The first great source of such differences is the lack of uniformity in physical and mental capabilities among the working population. Even if every worker had freedom of choice to enter any occupation, it is obvious that few would have the talents—physical or mental—to be great scientists, writers, or boxers. The extent to which such abilities are a result of training and environmental factors is still a subject of debate among psychologists, but it is evident that all workers are not equally gifted by inheritance. Those talents which are prized most highly by the community and which are least common among workers tend to be remunerated with the highest earnings.

Another important cause of differences is the fact that all occupations are not equally easy to enter. Even in our free enterprise society in which class lines are not firmly drawn, well-defined social strata emerge which render it difficult for the poor son of a laborer to rise to be head of a great corporation. Examples of such spectacular successes are often cited, but they represent an ideal rather than a likelihood for the ordinary workingman.

The labor market is characterized by a vast number of non-competing groups, as will be more fully explained in a later section of this chapter. However, four broad strata can be distinguished in the ranks of employees. At the lowest level in terms of pay and social position is the common laborer, performing work which requires a minimum of skill and a maximum of brawn. His wages are low because there are very many persons in the labor market who can do such simple work, and can do no other. Many workers find an entry in such occupations who would be excluded from other types of positions. Thus, the Negro, the immigrant, and various other minority or foreign-born groups make up a large proportion of this lower stratum.

At a somewhat higher wage come the semiskilled. These are workers who have ordinarily had some education, and have acquired some knowledge of a technical art, but for one reason or another have not served the necessary years of apprenticeship to become skilled artisans.

Above them come the skilled workers—carpenters, boilermakers, bakers, and so on. Most of these men have union cards and the benefit of a considerable period of apprenticeship behind them. That they consider themselves in some respects superior to less skilled fellow workers is demonstrated by the clannishness of the skilled craftsmen in the American Federation of Labor who, for many years, refused to accept unskilled workmen into membership.

The next group on the ladder of social status—the clerical workers—are frequently below the skilled, and sometimes below even the semiskilled—in terms of remuneration. Yet in outlook and social allegiance, they are allied with the professional and capitalist class. In recent years, however, union organization has made slight inroads in the clerical group, and it is possible that this development may produce a stronger social-political bond between the first three groups of labor and the clerical workers.

The top group in the labor market in terms of pay and social prestige are the professional workers—the doctors, dentists, lawyers, architects, engineers, professors, and others who have generally trained for their occupations in college and advanced study.

While there is considerable movement between these groups, nevertheless to some extent, the strata become self-perpetuating. In other words, the son of a doctor is likely to become a member of a profession, while the son of the common laborer is more likely to be a laborer, or at best a skilled worker. The greatest barrier to movement up the ladder of social strata is the cost and time required for education. The poor laborer would like his son to go to college, and it may be that he is bright enough to win a scholarship. But all too frequently a rising career is blighted because the son must leave school in order to go to work and earn money toward the support of the family. The GI Bill of Rights, however, may have a major effect on the degree of mobility between these various groups. It has afforded higher education to thousands of men who would otherwise have been denied the opportunity because of lack of funds. These men will want their children to have the same opportunity, and they will be better able to give them this opportunity because they themselves will leave schools and colleges equipped for higher paying jobs in industry.

Expense of education and training therefore may be less important as a barrier in the years to come than it has been in the past. But the growing strength and spread of union organization may raise new barriers to movement into the ranks of skilled workers. Many unions seek to limit the supply of labor in their particular occupation so as to keep labor at a premium. Such planned scarcity may be accomplished through regulation of apprenticeship periods, regulation of the use of helpers, support of license laws which forbid the practice of a trade by persons not holding a license or certificate of competency, and by imposing barriers to entering the union. The Taft-Hartley Act of 1947 prohibited excessive initiation fees and thus deprived unions of one means of rendering entry difficult. This regulation has been of little importance, however, and more subtle devices still remain, as we discussed in Chapter 6. In addition, there are many other bars to entry put up by a wide variety of groups—business, professional, and agricultural—all desirous of keeping out newcomers, and these barriers may grow stronger as organized groups increase their strength.

Diversity in Remuneration for Same Job

In Chapter 7, we found that a tremendous diversity frequently existed in wage rates for the same types of jobs in the same general area and/or industry. Writing in 1776, Adam Smith noted this phenomenon when he stated:

> The price of labour . . . can not be ascertained accurately anywhere, different prices being often paid at the same place and for the same labour, not only according to the different abilities of the workmen, but also according to the easiness or hardness of the masters.[32]

Despite the shrewd observations of this eminent Scotsman, and overwhelming factual evidence, economists tend to think in terms of "labor markets" where wage earners and employers sell and buy labor and where competition determines a single final price for a given grade of labor. Variations from this assumed norm are "explained" by phrases, such as "imperfections in the market," or in modern times by the popular, ill-defined term "labor monopoly."

The failure of economists to follow up Adam Smith's careful observations may be ascribed to two fundamental errors: (1) lack of understanding of the nature of labor markets; and (2) the failure to appreciate the thinking of the workingman and the consequent effect of that thinking on the mobility of labor.

The Nature of Labor Markets

Traditionally, the labor market has been defined as a general area within which a group of employers and wage earners buy and sell services. In its economic meaning a given labor market does not necessarily have fixed geographic boundaries, and no doubt most economists would state that the place where one labor market ends and another commences is not sharply defined, but rather that various labor markets shade one into the other.

Since the latter half of the nineteenth century, economists have recognized that there exists in the labor market various "non-competing" groups.[33] Thus it was conceded that even within the same labor market area, different labor markets existed for common laborers than for skilled workers; for clerical personnel than for professional personnel, etc.[34] This was explained by the fact that the labor market is stratified and that barriers of education. environment, and status create the basic non-competing groups discussed above.

Actually, the degree of stratification of the labor market is much greater than has been customarily recognized in economic discussions. In a real sense, each buyer in a labor market is distinguished from all other buyers. There are thus as many labor markets as there are employers of labor. In this respect, the labor market resembles many retail product markets. Recent theories of the functioning of the latter type of market explain that each seller of a particular product is in a sense a monopolist, having his own clientele and being able to vary prices within a certain range; yet he is also in competition with all other monopolists selling similar products. Hence the term, "monopolistic competition."[35] Because each seller has some degree of control over his own market, he is frequently able to charge a higher price for the same product sold by a different firm at a lower price. The super market may sell a can of beans for 10 cents while next door, the delicatessen sells the same product for 15 cents. The exclusive dress shop may sell a hat for $50 while a duplicate can be obtained for $5 in a poorer section of town. That these differences in prices for the same product can persist is attributable in part to buyer ignorance, and in part to the fact that even if buyers had full knowledge of the price difference, they might not want to alter their customary buying habits.

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[32] Adam Smith, *The Wealth of Nations* (New York, Everyman's Library, 1931), vol. 1, p. 69.

[33] This principle was first developed by the English economist, J. E. Cairnes, *Some Leading Principles of Political Economy, Newly Expounded* (New York, Harper and Brothers, 1874).

[34] See F. W. Taussig, *Principles of Economics*, 3d ed. (New York, The Macmillan Company, 1926), vol. II, pp. 141 ff.

Similarly, as we shall see in the following discussion, differences in wages for the same job may exist in the same area because workers do not have full knowledge of other job opportunities, and even if they did, they would be reluctant to leave their familiar residence and place of work to start anew in a different area and firm. Diversity in wage rates for the same job may even extend to the same plant because of differences in the race, sex, or length of service of employees performing the same job.

Wage fixing (analogous to a quoted price in the product market) is characteristic of the labor market. The employer does not want wage rates to fluctuate with every change in supply and demand conditions. Stability in wage rates is essential for satisfactory manufacturing operations. Constant change in the wage schedule of the average company would cost more than it was worth. Moreover, stability is also desirable from the point of view of employees. Frequent changes in wage rates would cause friction and suspicion, and would make employees feel insecure. Therefore, in changing wage rates, employers customarily grant general wage adjustments to all employees instead of adjusting rates to individual demand and supply conditions.

The majority of multi-plant companies try to relate their wage scales either to those paid by other firms in the area or to rates for the same industry in the area; some, however, pay the same wage scales regardless of the size of the city or the region of the country in which their plants are located, and others have uniform scales for each region or zone. Some companies raise wages with increases in the cost of living and increases in length of service, while other companies do not. Such differences in company wage policies, in employer evaluation of particular jobs, and in stress on various wage factors, all contribute to the existence of a diversity of wage rates rather than a single rate for any grade of labor in a particular locality.[36]

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[35] E. H. Chamberlin, *The Theory of Monopolistic Competition*, 3d ed. (Cambridge, Harvard University Press, 1939).

Until recently most economists assumed that in the absence of labor unions, there was enough mobility among workers within a competing group so that if one firm paid a higher wage for a given job than other firms in the area, workers qualified for that job would attempt to get employment at the high-wage plant. The rush of applicants to this plant would tend to pull down the wage offered there and at the same time force other employers to raise their wages until equilibrium between the high-wage and low-wage firms was achieved, perhaps, at some rate between the wages formerly paid by each. As already noted, however, a high degree of wage diversity exists in any area or industry and all evidence indicates that such diversity is even greater before the advent of trade unionism than after, since as we have repeatedly stressed, the union often has a vested interest in equalizing rates for the same job in the same area and/or industry. The reasons for this diversity in terms of wages have already been explained in Chapter 7. Suffice it here to note that company and union wage policies developed through years of experience vary considerably and are sometimes favorable to equalizing rates and other times to diverse rates for given job classifications in the general labor area. Union-management wage policies are much too sophisticated to be judged under such slogans as "labor monopoly," which in its latest form appears to maintain that any wages other than wages which might have existed if unions had not come into the picture are *ipso facto* ascribable to the "monopoly power" of unions.[37]

Looking at the issue of highly diverse wage rates for the same jobs existing in the same area from the supply of labor side, rather than from the price of labor side as we have heretofore, the basic question is why do not workers jump to take advantage of higher wage rates instead of remaining at jobs which pay less than similar work elsewhere in the area in which they reside. The answer to this question requires an understanding of workers' psychology, particularly in its relation to job hunting.

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[36] R. A. Lester, "Reflections on the 'Labor Monopoly' Issue," *Journal of Political Economy*, **55**:515 (1947).

[37] Charles E. Lindblom, "The Union as a Monopoly," *Quarterly Journal of Economics*, **62**:671–697 (1948).

GETTING AND HOLDING A JOB

Soon after World War II ended, a recently discharged veteran was driving through an industrial suburb of New York City with his fiancée, discussing plans for securing a job and getting married. In the course of their drive they passed a modernistic plant which impressed the lady so much that she suggested that her husband-to-be apply for a job there. He did, and became a salesman for the firm housed in the modernistic plant.

By such coincidental developments, most people secure their first jobs. It would probably be accurate to say that the first job is an accident. One is looking for work and one secures it through a friend, a relative or purely by chance. Generally speaking, the average worker does not plan the first job very carefully. Moreover, the first job is very often not a successful job. It may be a blind alley and frequently a worker stumbles from one such job to another until happily or not he becomes more or less permanently situated in a position.

The average employee has little knowledge of jobs in other plants than the one in which he works. He picks up some information from friends and perhaps a little more from his union. Basically, however, wages, hours, and working conditions in plants other than the one in which he works are vague and uncertain to him. Economists have recognized that there exists a considerable lack of knowledge among workers concerning jobs and job opportunities. However, it has remained for students of the labor market to produce the amazing extent of this lack of knowledge. The effect of imperfect knowledge on mobility of labor is very great. People do not change jobs very often, because they cannot ascertain what the merits of an alternate position really are. They know the conditions under which they now work and they fear to take a chance on the basis of their very inadequate knowledge of conditions elsewhere.

Changing Jobs

Once workers have had experience on the job, their ideas as to what they want in a position tend to crystallize. Of prime importance, of course, is an adequate wage rate. They are likely to judge wages by two criteria: first, what kind of standard of living the wage permits them; and second how it compares to what they regard as fair for the job. A variety of factors determine their thinking on the wage question as noted in Chapter 7.

Besides wages, however, workers tend to place a good deal of importance on such intangibles as the independence and control permitted them in their job; relationship with fellow workers; fairness of treatment; the extent to which the job is interesting; and the physical characteristics of the job. All except wages, it should be noted, are difficult to ascertain except by those who are already working in the plant. The lack of knowledge of the characteristics of jobs is, therefore, not only the result of the failure of workers to inquire more thoroughly into alternate job opportunities, but such characteristics are also inherently difficult for even the most careful investigator to discover prior to employment. This fact contributes materially to the immobility of labor.

Additional Factors Contributing to Immobility

There are other reasons why workers are reluctant to change jobs. First of all is the matter of seniority and other benefits such as pensions which one ordinarily loses automatically when changing positions. Having to start all over again at the bottom of the seniority list is enough to make a vast number of workers extremely reluctant to move. The fear of another depression pervades the thinking of working people. Few of them directly or indirectly escaped the ravages of long-term unemployment. One of their main objectives is to get into as secure a position as possible and this they feel is near to the top of a seniority list.

Statistical verification of low labor mobility is found in Fig. 6. Even in 1948 when employment was at a very high level, quits and firings averaged less than five per hundred workers. Theoretically, turnover should be highest at a time of full employment when jobs are easiest to secure. Uncertainty of the future, seniority regulations, and lack of knowledge

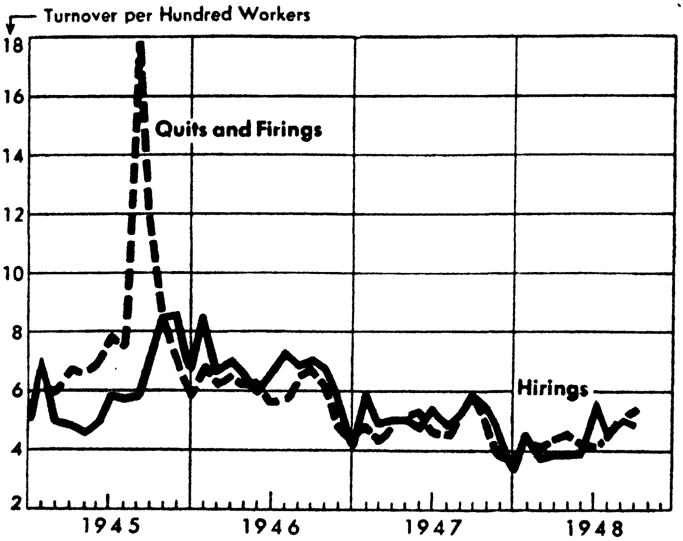

FIG. 6. Quits and firings, 1945–1948. Data: U. S. Bureau of Labor Statistics. Source: Reprinted by the courtesy of McGraw-Hill Book Company from *Business Week* (Nov. 20, 1948).

of alternatives are among the factors which have kept labor turnover so low.

Getting a New Job

When men do leave jobs voluntarily or when they are permanently laid off, they generally do not make a calculated survey of existing opportunities. Rather they are likely to accept the first position which meets their main specifications in choosing a new job. In such instances, workers are likely to stress the wage, rather than any other aspect. The reason is simple. Wages are the only criterion which they can evaluate before being on the job.

In the case of union men, the existence of the union may be as important as the wage. The extent is likely to depend upon how thorough a unionist a union member is and consequently how much importance he attaches to the existence of a particular collective bargaining agent.

A surprising reluctance exists among workers to use state employment agencies. Only if they are laid off and are forced to register for unemployment insurance are they likely to utilize state unemployment offices. In this case they are required to if they are to receive unemployment compensation. With both employers and employee, state unemployment offices apparently have, to an unfortunate degree, the reputation of supplying the less satisfactory labor and the less satisfactory jobs. Hence, the worker is likely to depend upon informal and chance methods of job attainment.

Another interesting factor is that workers who are dissatisfied enough with jobs to quit them voluntarily often quit before they have obtained another position. This is of course more likely to be true in times of high employment than in times of depression. But again it indicates less systematized analysis of job opportunities on the part of workers than economists have tended to assume theoretically.

We may sum up this analysis of worker thinking and job changing by stating that the average worker has little opportunity to evaluate job opportunities on a large scale; that he is likely to take the first reasonably good job offer; that prior to employment he is likely to change a job almost solely on the basis of the wage rate; that after employment he is likely to consider non-wage factors of considerable importance, but that he realizes that such factors can only be evaluated after employment and rarely before.

The attempts of economists, therefore, to recognize 5 to 10 non-competing groups in what is termed a "labor market" is a grave oversimplification. Because of the lack of knowledge and the other factors contributing to labor immobility, any industry or area does in fact contain a vast number of non-competing groups, none sharply defined, but all very much in existence. This often prevents the existence of diverse wage rates for the same job from materially affecting one another and allows them to exist to an amazing extent in all industry areas.[38]

Other Causes of Wage Diversity and Labor Immobility

In addition to the general problems already discussed, wage diversity and labor immobility are also caused by a number of other factors. One of these is race discrimination. Not only does such discrimination cause employees to be rejected for jobs for which they might be suited, but it also restrains them from applying to companies where they believe discrimination may exist. In states in which fair employment practice legislation has been enacted, the number of complaints of race discrimination made to such commissions has not been as great as had been predicted. The main reason appears to be, not the absence of discrimination, but the fact that minority workers do not apply to plants where they believe they will be discriminated against. Rather they make their applications in the traditional jobs and companies where they have been accustomed to be accepted. Apparently, it will take a considerable period before minority groups will alter their patterns of seeking employment. Nor is this surprising. They are seeking jobs, not test cases and not the opportunity to be insulted.[39]

A final factor which limits labor mobility is the natural reluctance of employees to accept employment too distant from home. Although this reluctance has been overcome to a considerable extent by transportation improvement, it still remains for all but the dyed-in-the-wool suburban commuter. Nearness of job to residence is a prime consideration, and such nearness may mean that a worker will prefer a job on one side of town at a lower rate to a better paying job a long bus ride away.

Migrations and Mobility

The fact that labor is considerably immobile in its relation to specific jobs remains true despite the great mass migrations which have taken place throughout history. In other words, the supply of labor to the firm is relatively immobile and inelastic; but the supply of labor in the economy is more mobile and more elastic, particularly in the long run.

Most mass migrations were induced by war, famine, or other disaster; or else by the promise of a better life in a new land. The familiar story of European immigration to America fits into these categories and so do the migrations of Negroes from the southern cotton fields into northern industry. It should be noted, however, that most of this migration has been unplanned and lacking in direction. Immigrants coming to America rarely had specific job opportunities in mind, but took the first position offered. During World War II over a million persons, white and colored, left the South for other parts of the country, particularly the war industries of the Midwest and Far West.[40] They came for better jobs, but not for particular jobs.

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[38] The foregoing analysis of labor mobility owes much to L. G. Reynolds and Joseph Shister, *Job Horizons* (New York, Harper and Brothers, 1949). Through the courtesy of Professor Shister, we were permitted to use this study in page proofs.

[39] H. R. Northrup, "Proving Ground for Fair Employment," *Commentary*, 4:552–556 (1947).

There were, of course, exceptions. The Kaiser Company interviewed workers all over the country and sent them to the west coast shipyards for particular jobs. The AFL Building Trades Department supplied labor for construction jobs throughout the country and even for bases on Pacific islands. For the most part, however, the migrations of World War II or those of previous periods represented the urgings of men for economic betterment and not movements to special prearranged jobs. Migrations increase labor mobility in the broad sense. On the local scene, however, they affect labor mobility to a much lesser extent.

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[40] W. Haber and E. Welch, "The Labor Force During Reconversion," *Review of Economic Statistics*, **26**:194–205 (1944).

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The Demand for Labor

In June 1948, a total of 16,161,000 wage and salary workers[1] were employed in manufacturing industries in the United States at average weekly earnings of $52.95.[2] The total wage bill paid by employers to these workers in the month of June 1948 approximated three and a half billion dollars. What determined that the wage bill in manufacturing should be of this size? Is there at any one time a fixed "wage fund" which limits the total compensation available for workers? Why was not employment larger, or smaller, in these industries?

The problems raised by these questions form the subject matter of this chapter. We shall see that the volume of employment and the size of the wage bill are mutually determined by the supply and demand for labor. But supply and demand in this context are considerably more complex in nature than in the usual problem of market equilibrium for a product sold under perfectly competitive conditions. We have already had occasion to consider some of the peculiarities of supply of labor in the preceding chapter. In this chapter we shall turn our attention to the demand for labor.

Labor as a Factor of Production

Employers have a "demand for labor" just as they have a demand for coal, or electricity, or raw materials or any other of the "means of production" which are required to manufacture a finished product. In thus considering labor as a "means of production," we are not, of course, overlooking the fact that labor is highly personalized and therefore, for many problems in the field of labor economics, cannot be treated as the equivalent of so many hours of "energy" on the same level as a lifeless thing like a machine. However, when we are trying to understand the entrepreneurial calculations which shape the demand for labor, we must recognize that from the point of view of an employer seeking to operate his plant in the most efficient manner possible, the outlay for labor is a cost of production, in the same sense as the outlay for electricity or raw materials.

No matter how understanding an employer may be in dealing with his personnel, the exigencies of market competition compel him to attempt to obtain maximum output at minimum cost from available factors of production. In so doing, the employer will find it advantageous to consider whether or not he would be better off if he used a little less labor and more machinery, or perhaps more labor and wasted less material, and so on. Thus, in the employer's calculations, labor becomes merely one of the many factors which can be combined in various proportions to yield varying amounts of physical output.

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[1] *Monthly Labor Review*, **67**:317 (1948).

[2] *Monthly Labor Review*, **67**:335 (1948).

THE MARGINAL PRODUCTIVITY THEORY

The total amount of labor demanded at a given wage will be the sum of the quantities demanded by all individual employers in all industries. Each individual employer in "buying" labor on the market will seek to hire that amount of labor relative to quantities of other factors which, broadly speaking, will afford him the maximum profit. In other words, the employer will hire a worker only if the cost of the employee's services is less than the anticipated contribution which this particular employee will make to the revenues of the firm. For example, an employer will not hire an additional worker at $10 a day if he estimates that the worker can only produce per day a product valued at $7. The calculation of the employee's anticipated marginal contribution can, of course, only be approximate. Nevertheless, some such estimate must be made if the employer is to know how much of each factor he should utilize in manufacturing his finished product.

The proposition that employers will hire labor only so long as it contributes more to revenues than it adds to costs has been called the marginal productivity theory. Actually, it is simply a logical deduction from the major premise that businessmen seek to maximize profits. Of course, not all entrepreneurs will in fact behave as the proposition asserts they should if they are to maximize profits. But most employers probably will. Despite the criticisms that have been leveled at the theory, no other theory has been proposed which offers as satisfactory an explanation of the forces which determine the volume of employment and the size of the wage bill.

Unfortunately, the term, marginal productivity theory, has acquired a bad reputation among critics who disapprove of the theory on the ground that it fails to conform to the realities of the labor market. Many of these criticisms are attributable to a misunderstanding of the theory, rather than to inadequacies of the theory itself. But these controversies need not concern us at this point. The theory of wages could be explained quite well without any mention of the words "marginal productivity." Because the phrase "marginal productivity theory" is convenient and has become a familiar part of the economist's vocabulary, we shall use it in the following discussion. But it is to be understood simply as a shorthand method of expressing the principle that businessmen will ordinarily not pay a worker more than he is worth—using the term "worth" in its strictly economic sense without any moral or social connotations. How this economic "worth" is to be determined will be the subject of discussion in subsequent sections of this chapter.

THE WAGES FUND THEORY

At first glance, the proposition that the wage of labor will approximate the marginal product of labor does not seem to be particularly profound. Nevertheless, it is a logical proposition which economic theorists were a long time in grasping. It was necessary first to discard the erroneous notion of an "iron law of wages" in which the long-run remuneration of labor was confined to a subsistence level. This theory—which has been briefly examined in the preceding chapter—explained the determination of the wage level almost exclusively by supply considerations. The next theory to gain popularity shifted attention to the demand side. In the latter part of the eighteenth century and the first part of the nineteenth century in England and France, the so-called "wages fund" theory played an important role in wage theory. Economists now sought to explain the determination of the aggregate amount of funds which employers were prepared to expend in hiring labor. The amount of such funds available for paying wages and salaries was conceived of as substantially fixed at any given period of time. In some discussions, this fund was referred to as "capital."

The wages fund theory declared that the rate of wages is determined by the ratio between this "capital" and the working population. As explained by one famous exponent of the theory, "capital" meant circulating capital, and not even the whole of that, but only the "part which is expended in the direct purchase of labour." "Wages not only depend upon the relative amount of capital and population, but cannot, under the rules of competition, be affected by anything else. Wages cannot rise but by an increase of the aggregate funds employed in hiring labourers, or a diminution in the number of competitors for hire; nor fall, except either by a diminution of the funds devoted to paying labour, or by an increase in the number of labourers to be paid."[3]

The wages fund theory was never clearly formulated and there was much confusion as to the precise meaning of its terminology. Some formulations of the theory amounted to no more than a truism. To explain the rate of wages by saying that it is a result of the proportion between the number of employees and the amount expended upon their wages by employers is simply to state an arithmetical proposition, not an economic theory. On the other hand, to maintain that there is a definite and fixed fund which is available for payment of wages is clearly erroneous. Wages fund theorists believed that the fund could not be expanded at the expense of profits—that diminution in profits would also reduce the wages fund. But this conclusion rested on the implicit assumption that employers earned only "normal profits," that is, profits at the minimum level necessary to induce an employer to stay in business. As long as there are surplus profits, so that a reduction in profits will not force employers out of business, the wages fund can be expanded by diverting profits to wage and salary payments.

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[3] J. S. Mill, *Principles of Political Economy*, Ashley, ed. (London, Longmans, Green and Company, 1909), pp. 343–344.

Wages fund theorists, in describing the fund as a "capital," frequently confused a capital composed of physical commodities with a money capital. Obviously, if the theory relies upon a fixed fund composed of so many dollars and cents available for expenditure upon labor it can have no validity in a modern economy with an elastic credit system. The amount of funds available to pay the wages of labor can always be expanded by borrowing from banks if employers are willing to pay the market rate of interest.

But there is a sense in which the wages fund theory has some validity. In our modern economy, most products are produced by "roundabout" methods of production. That is, the various commodities which constitute the real wage of labor represent the result of a long "period of production." An automobile may come off the production line at Willow Run every minute, but this rapid rate of output is made possible only by the fact that iron ore was mined years before, and steel produced and fabricated into a huge factory and equipment capable of turning out automobiles on a mass production basis. At any given moment, only a certain amount of finished products are emerging from the long production line represented by our entire productive process, just as on the production line at Willow Run most of the cars are in an incomplete stage with only a few ready to be driven off and purchased by consumers.

Workers do not want to buy iron ore, or automobile frames, with their wages. They want finished products, ready for use and consumption. If the flow of such finished products cannot be substantially increased in the short run, an increase in money wages paid to employees may simply produce a rise in prices without augmenting workers' real wages. Thus, in the short run, the rate of real wages is, to some extent, limited by the size of the "subsistence fund" representing the efforts of past labor which must support current labor until new products emerge from the productive process. However, such a wages fund is flexible over time. Contrary to the view of the proponents of the old wages fund doctrine, an increase in the working population need not reduce the wage rate. On the contrary, when time has permitted the larger number of workers to be better organized so as to achieve a more efficient division of labor, there may be an increase in current output of finished goods which will raise the level of real wages.

The wages fund theory was originally propounded as a means of explaining the determination of the level of real wages. In time, however, it was converted into a doctrine which could be used to prove that attempts by workers to raise their real wages were futile. This perversion of the doctrine ultimately led to its recantation by one of its most famous proponents. He conceded that the wages fund was not fixed, that the whole of the capitalists' means was potentially capital (in the sense of advances to labor), and that the amount which actually became capital depended on capitalists' personal expenditures.[4]

Laws of Production

Following the demise of the wages fund theory, the marginal productivity theory became the doctrine commonly applied by economists to explain the demand for labor. Briefly, this theory reduced to two propositions: (1) employers would not ordinarily pay labor more than its marginal contribution to the product of industry; (2) the force of competition tended to make employers pay labor the full value of such marginal contribution. The precise assumptions upon which this theory depended for its validity will be explored subsequently in this chapter. First, we must turn our attention to certain "laws of production" which influence the size of the additional physical product which a worker can produce and therefore enter into the determination of the wage which the employer can afford to pay him.

THE LAW OF PROPORTIONS

The law of proportions is concerned with the effect on total output of adding successive amounts of one factor of production to another factor or group of factors which is held constant in amount. Thus we may wish to know the effect on total product of adding additional workers to assist in the cultivation of one acre of corn. Or we may wish to know the behavior of total output of shoes as the amount of capital per worker is increased. The universal rule in such cases is that, with a given state of technology, the application of successive units of *any* variable factor to another fixed factor will, after a certain point is reached, yield less than proportionate returns. This law of proportions—which the reader has undoubtedly met in his readings in introductory economics under the name of the law of diminishing returns—is of fundamental importance to marginal productivity determination. The marginal productivity theory postulates that, in equilibrium, the wage of labor will be equal to its marginal product. If, by adding successive units of labor to fixed quantities of other factors, employers could always obtain more than proportionate increases in total product, there could be no equilibrium of the firm. Each employer would strive to expand output indefinitely, since profits could always be increased by adding more workers.

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[4] The recantation was made by John Stuart Mill. See E. Roll, *A History of Economic Thought*, rev. ed. (New York, Prentice-Hall, 1942), p. 402.

If industry did, in fact, operate under such increasing (in contrast to diminishing) returns, employers could not afford to pay labor its marginal product. Suppose, for example, that all workers are of equal ability and that employment of additional labor increases total product as follows:

Men	*Total Product*	*Marginal Product*
1	4	. .
2	10	6
3	17	7
4	25	8

The addition of a fourth worker increases output by 8 units. But the employer could not afford to pay a wage rate equivalent to 8 units of product, since all workers have to be paid the same wage, and payment of an hourly wage of 8 units of output would involve a wage bill of 32 units, which is in excess of total product.

In practice, employers operate within the range of diminishing returns. Therefore, the marginal product of labor will be decreasing, not increasing, as in the above hypothetical example.

Men	*Total Product*	*Marginal Product*
1	4	. .
2	10	6
3	14	4
4	17	3

In this illustration, the addition of the fourth man increases total product from 14 to 17 units. The marginal physical product (i.e., the increase in total product attributable to the addition of the last unit of variable factor) of the fourth man is 3 units, and the employer therefore can profitably pay up to 3 units as his wage. Because of diminishing returns, the wage bill will not exhaust total product—the wage bill would be only 12, while total product would be 17.

The operation of the law of diminishing returns can be conveniently illustrated by the following figure:

The curves in Fig. 7 indicate the effect of adding varying amounts of labor to a fixed quantity of capital. The total product curve (uppermost in the figure) rises first at an increasing rate to point X, then at a diminishing rate to point G, and thereafter declines. For the number of laborers at which the rate of growth in total product is greatest (OZ), the marginal product of labor reaches its maximum. The marginal product and the average product of labor are equal at point E. At the corresponding point on the total product curve (F), a line through the origin (O) will be tangential to the total product curve. This is simply a geometric expression of the fact that marginal and average products are equal. Beyond the employment OB, marginal product of labor becomes negative, indicating that additional laborers so impede each other's work that total product actually is diminished.

Stage I in the figure is characterized by increasing returns for labor and negative returns for capital. In other words, there is such an excess of capital relative to labor that the marginal productivity of capital is actually negative. This can be seen from the fact that if the proportion of

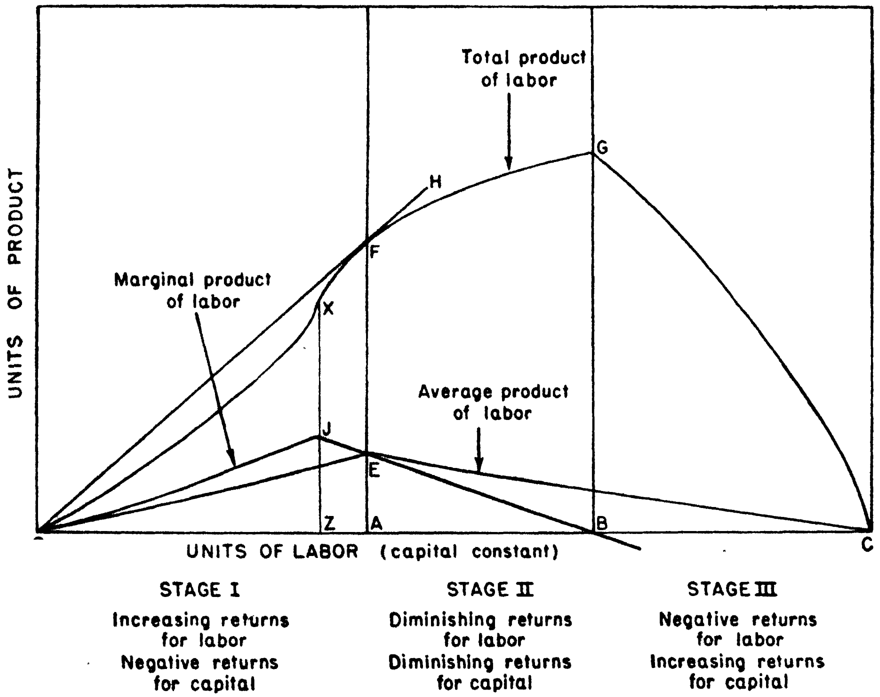

FIG. 7. Productivity curve. (For purposes of exposition, the marginal and average curves have been drawn to larger scale than the total curve.)

factors is changed, so that more labor is added relative to capital (which is equivalent to taking away capital from a fixed amount of labor), the average product of labor will increase. With such a proportion between labor and capital, the workers are more productive if some of the capital equipment is removed. It is obvious that a rational employer, if he can help it, will not employ a combination of factors in this range in which the contribution of one factor is negative.

Stage II is the range within which production is technically efficient. The precise ratio of labor to capital which will be used within this range will depend upon the costs of the two factors relative to the value of the product. To be efficient means to know how to "waste" the right factor. If labor is expensive while capital is cheap, the most profitable ratio of combination will lie close to line AEF within Stage II. In other words, a large amount of capital will be used relative to labor, thus yielding a high marginal product for labor. This explains why, in the United States where labor has customarily been relatively scarce and expensive, a high capital-labor ratio is employed, whereas in China where labor is cheap, little capital is employed with labor.

As we move from left to right in Stage II, adding more laborers to a fixed amount of capital, the marginal product of labor falls. This suggests that certain craft union officials are acting quite rationally in attempting to keep labor in short supply by imposing restrictions on entrance into the trade and other limitations which make labor scarce relative to capital. For the smaller the supply of labor relative to capital, the higher will be its marginal product. And other things being equal, the higher the marginal product of labor, the higher will be its wage.

THE LAW OF SCALE

The law of proportions, as we have seen, is concerned with the effect upon total physical output of adding increasing amounts of variable factors to an unchanging amount of a fixed factor. The law of scale, on the other hand, concerns the effect upon total product of increasing *all* factors together in the same proportion. For example, if we double the amount of capital and the quantity of labor and the amount of land, will output likewise double? Will the increase in total product be greater or less than in proportion to the increase in the quantity of factors?

Why is this problem relevant to marginal productivity determination? The size of the marginal physical product contributed by a particular worker will depend upon the size of the establishment in which he is employed. Take the example of Jones, the shoemaker. If Jones is employed in an establishment having only 10 employees, chances are that most of his work will be done by hand. Moreover, he will probably have to make the entire shoe himself, since the number of employees will be too small to permit efficient division of labor. However, as the size of the establishment grows, there will come a point—say, when 100 men are employed—at which it will pay the employer to utilize expensive machinery designed to perform individual operations such as lasting, cutting, and so on. Moreover, the workers can be arranged in a production line, each worker performing only a specialized operation at which he soon becomes highly proficient.

As a result of the introduction of machinery and division of labor, efficiency of operation will increase. Consequently, the physical productivity of a worker in the large factory will be greater than the physical productivity of a worker in the small plant. Here we have a situation in which an increase in the amount of labor and capital produces a more than proportionate increase in total output. This consequence is fundamentally attributable to the fact that machinery can only be introduced in "chunks." A conveyor belt and production line cannot be advantageously used with only 10 employees, and the small firm cannot use half a machine. As the size of a firm grows, various "indivisible" chunks of other factors become profitable to use, and such utilization, impracticable in a smaller plant, may produce a substantial improvement in efficiency.

However, if such improvement were a continuing possibility as a function of increasing scale, there would be no limit to the size of firms. Our economy would be composed of giant monopolies, each supreme in its own field. Obviously, this eventuality has not occurred. The reason is that as a firm grows in size, the problems of organization, supervision, and coördination grow in complexity. Management becomes farther and farther removed from actual operations as the hierarchy of minor officialdom grows. As a consequence, beyond a certain size—which varies by industry—inefficiency develops and the rate of increase in total product becomes less than proportionate to the increase in quantity of all factors used.

Another reason for the eventual decline in rate of growth of total output as size of firm grows is that beyond a certain point it is not possible to increase entrepreneurship in the same proportion as other factors. Men who can efficiently manage million-dollar enterprises are few and far between. Consequently, as existing management finds it must itself coördinate larger quantities of labor and capital, inefficiency develops. This is simply a reflection of the operation of the law of proportions—increasing amounts of labor and capital added to the unchanging factor of entrepreneurship result in diminishing returns in terms of total output.

Thus the law of scale and the law of proportions set important limitations on the proportion and amount of factors which will be used in individual firms. Were it not for the law of proportions there would be no limit to the output of a firm; were it not for the law of scale there would be no limit to the amount of all factors which could profitably be combined under one management. These laws, therefore, play an important role in determining the physical environment in which labor will work and thereby influence the size of physical product which will be attributable to the efforts of particular workers.

Demand for Labor in the Individual Firm

NATURE OF PRODUCTIVITY DETERMINATION BY EMPLOYERS

The laws of production which we have just examined, by setting a limit to size of plant and output, make possible an equilibrium adjustment of costs and revenues in the individual firm. We are now prepared to consider the nature of marginal productivity determination as one aspect of this equilibrium of the firm.

Few employers ever heard of marginal productivity; yet they are called upon to apply the principles of this doctrine almost every day in the conduct of their business affairs. John Doe, a machine operator, applies to a broom factory for a job. Should the employer hire him or not? The mental calculation of the employer faced by this problem will in substance be no different from that which he would make in determining the desirability of undertaking any other type of acquisition for the plant. The question in each case is: will purchase of the additional unit or units of the productive resource increase the revenues of the firm by an amount in excess of the addition to cost incidental to its employment? If the addition promises to augment profits, so calculated, the resource will be acquired; if not, the opportunity to purchase will be forgone.

Obviously, the calculation must ordinarily be approximate, and often highly conjectural. Determination of Doe's anticipated marginal contribution to the firm would be facilitated if three conditions were satisfied: (1) if his employment did not require use of additional material or capital so that his contribution would be net without deduction for incidental expenses; (2) if the increment in output attributable to his employment could be measured in distinct separable completed physical units; (3) if the price at which the increased output could be sold could be accurately forecast. In practice, these conditions are never realized, so that, at best, the employer's calculation of the marginal worth of an employee must remain in the realm of approximation.

In a Robinson Crusoe economy where Crusoe had merely to evaluate the worth of the services of one man Friday, the marginal product of labor could be determined with fair precision. In a typical modern factory, however, where thousands of employees, aided by complex machinery, together pool their efforts to produce a joint product, the contribution of the individual employee becomes indistinct. Nevertheless, employers must make some estimate of the worth of additional employees. Otherwise, the personnel manager would go on hiring *ad infinitum,* and there would be no limit to the size of the firm. Moreover, a company could not long remain in business if it continued to pay its employees more in wages than their labor contributed to the revenues of the business.

Businessmen naturally do not think in the economist's technical phraseology, yet in practice they satisfy the essentials of the marginal productivity theory. That is, in general, they seek to maximize profits by operating their businesses in the most efficient manner possible. They add to their productive capacity only so long as they anticipate such additions will increase profits, and they will not ordinarily pay more for productive resources than they are worth to the firm.

Marginal Productivity Calculations

Productivity calculations are frequently "rule of thumb." The employer may make a quick calculation on a scrap of paper, or the process may be entirely mental. Tables 18 and 19 are intended merely to clarify and elaborate the nature of the shorthand calculation which employers make in determining the volume of employment in a firm. Ordinarily, the employer will have no such detailed schedules available.

Assume that our factory produces brooms and that the relationship between employment, physical product and revenue is estimated to be as follows:

Table 18

PURE COMPETITION

1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*
Units of Labor	*Total Product*	*Marginal Physical Product*	*Price Per Unit*	*Value of Marginal Physical Product*	*Total Revenue*	*Gross Marginal Revenue*	*Incidental Incremental Expenses*	*Net Marginal Revenue*
1	20	20	5	100	100	100	2	98
2	50	30	5	150	250	150	2	148
3	70	20	5	100	350	100	2	98
4	85	15	5	75	425	75	2	73
5	95	10	5	50	475	50	2	48
6	100	5	5	25	500	25	2	23
7	100	0	5	0	500	0	2	−2
8	99	−1	5	−5	495	−5	2	−7

Table 19

MONOPOLISTIC COMPETITION

1 *Units of Labor*	*2* *Total Product*	*3* *Marginal Physical Product*	*4* *Price Per Unit*	*5* *Value of Marginal Physical Product*	*6* *Total Revenue*	*7* *Gross Marginal Revenue*	*8* *Incidental Incremental Expenses*	*9* *Net Marginal Revenue*
1	20	20	5	100	100	100	2	98
2	50	30	4	120	200	100	2	98
3	70	20	3.5	70	245	45	2	43
4	85	15	3	45	255	10	2	8
5	95	10	2	20	190	−65	2	−67
6	100	5	1	5	100	−90	2	−92

Consider first columns 1, 2, and 3 of Table 18. As additional units of labor are added to unchanging quantities of the other factors, the total product increases, at first more than in proportion to the increase in labor and subsequently less than in proportion to the increase in labor. Eventually, total product actually decreases. (This might be attributable to the fact that with 8 men and a limited amount of equipment, the men get in one another's way, so that output is curtailed.) This variation in total product and marginal physical product reflects the operation of the law of diminishing returns. If labor were paid in brooms and the rate of wages as established in the market was 16 brooms, this employer could afford to hire only 3 workers. With 3 men on his force, the employer gets production of 70 brooms, the third employee having increased production by 20 brooms. But the addition of a fourth worker would increase output only to 85 brooms. Fifteen brooms is therefore the marginal physical product attributable to the fourth worker; that is, it is the increment in total physical production attributable to the employment of an additional unit of the variable factor. If wages are paid in brooms, the employer cannot afford to pay this man 16 brooms when he adds only 15 brooms to the output of the firm.

Since, in a modern capitalistic economy, labor is paid in money wages and not in physical product, employers must estimate the money value of the physical contribution made by additional units of labor. The value of the marginal physical product is obtained by multiplying marginal physical product (col. 3) by price per unit of product (col. 4). It will be observed that under pure competition (Table 18), the value of the marginal physical product and gross marginal revenue (col. 7) are equal. The gross marginal revenue product of labor is calculated either by finding the difference between total gross revenue obtained with a given amount of labor and that obtained with a smaller amount of labor, or by subtracting from the value of the marginal physical product the loss in revenue, if any, on units of product produced without use of the additional units of the factor, when the loss is caused by a fall in price because of the augmented output. Since in pure competition any amount of product can be sold at the same price, there is no loss in revenue on earlier units and therefore the value of the marginal physical product is equal to the gross marginal revenue product. Ignoring for the moment columns 8 and 9 of Table 18, we observe that if the wage rate for broommakers were established in the market at $30, this firm could afford to employ only 5 workers. The gross marginal revenue product, i.e., the increment in total revenue attributable to the addition of a sixth worker is only $25. A firm which seeks to maximize profits will not employ a man costing $30 to turn out $25 worth of product.

In monopolistic competition, however, at a wage rate of $30, the employer could afford to employ only 3 men. (Table 19, col. 7.) The size of the firm and its volume of employment will therefore be less in monopolistic competition than in pure competition. This consequence is attributable to the fact that in monopolistic competition, the price of the product declines with increases in output, and therefore total revenue will decrease much more sharply than in pure competition. In Table 19, it will be observed that gross marginal revenue product (col. 7) is less than the value of the marginal physical product (col. 5). The use of additional labor produces an augmented output which can only be marketed at a reduction in price, and the price reduction diminishes revenue on all former units of product. Thus employment of the third worker results in production of 20 extra units which can be sold only by taking a reduction in price from $4 to $3.50. The value of the marginal physical product is $70 (col. 4 multiplied by col. 3). But the reduced price is applicable as well to the 50 units which could have been produced without the extra man, and therefore the loss of revenue on these units of $25 (50 multiplied by one-half equals 25) must be subtracted from $70, leaving $45 as the gross marginal revenue attributable to use of the third worker. Thus it is apparent that *in monopolistic competition a worker cannot be paid the value of his marginal physical product,* since this would exceed the amount of his marginal revenue contribution to the firm. In both pure and monopolistic competition, it is with reference to the marginal revenue product of labor that the employer will make his employment decisions.

Thus far we have considered only the gross revenue productivity of an increment of labor. But ordinarily the employment of additional units of a factor will require a change in outlay upon other complementary or substitutable means of production such as tools, raw materials, electricity, and so forth. To determine the net contribution of the increment of labor, these incidental changes in expenses for other things than labor must be deducted from the gross marginal revenue product. For simplicity in presentation, we have assumed in the tables that these incidental expenses are the same for each addition to the labor force, though in practice such lack of variation would be a rarity. Employment of additional labor will tend to reduce incidental expenses when labor is used as a substitute for other factors and to increase incidental expenses when labor is used in conjunction with other factors (complementarity). The latter relation is the more common in the short run. If it were possible to employ one more unit of labor in a given plant, with given machinery, given raw materials, and given intermediate products, there would still be incidental expenses which would have to be deducted from the gross marginal revenue product, because use of more working capital is involved in the investment of more labor hours over a given period of time.[5]

In estimating what these incidental expenses will be so as to ascertain the net marginal revenue product of labor, the employer takes the prices of other factors of production as given. But as individual employers alter their demands for such complementary factors as are needed to be used with the additional units of labor, the prices of the former will obviously be affected, and this change will in turn affect the net productivity of labor. Such reactions can be ignored in drawing up the marginal productivity schedule of labor in an individual firm since the demand for other factors by this firm is not likely to be large enough to alter their market price. However, when we consider the problem from the point of view of the economy as a whole, account must be taken of possible price reactions and redistributions of other factors. The schedule of a factor's marginal productivity in the economy as a whole will take account of necessary changes in the marginal productivity curves of individual firms due to consecutive changes in prices of complementary factors in the course of their reapportionment among competing uses. As a consequence, the schedule of a factor's marginal productivity in the economy as a whole will be quite different from an aggregate of all marginal productivity curves in all single enterprises in the economy.[6]

CONDITIONS OF EQUILIBRIUM IN THE FIRM

With the foregoing discussion as a basis, the conditions necessary to achieve marginal productivity equilibrium in the individual firm can be stated. Assume that pure competition exists both in selling the finished product of the firm, and in hiring labor. In other words, the demand curve for the firm's product will be horizontal, meaning that it expects it can sell increasing amounts of the product without affecting market price. The supply curve of labor to the firm will also be horizontal, meaning that the firm expects it can obtain more labor without having to raise the wage it offers new employees. Assume further that perfect competition prevails in the industry so that there is free entry of new firms. This condition insures that the firm will earn no more than "normal profits" (i.e., the minimum profits necessary to induce the entrepreneur to remain in business). In such a firm, the average cost curve will be tangential to the demand curve at the point of minimum cost.

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[5] Fritz Machlup, "On the Meaning of the Marginal Product," in *Readings in the Theory of Income Distribution* (Philadelphia, The Blakiston Company, 1946), p. 173.

[6] Fritz Machlup, "On the Meaning of the Marginal Product," in *Readings in the Theory of Income Distribution* (Philadelphia, The Blakiston Company, 1946), p. 174.

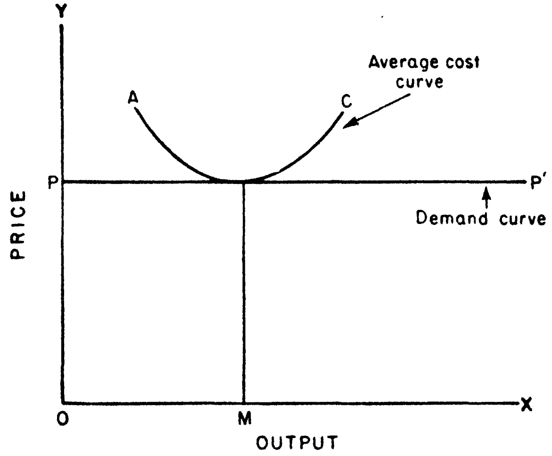

FIG. 8. Equilibrium of firm in perfect competition.

This condition is illustrated in Fig. 8 in which market price is measured along the Y-axis and firm output along the X-axis. Since pure competition is assumed to exist in the market for the product, the demand curve (PP′) is horizontal, and the firm will produce that output (OM) at which its average costs, represented by curve AC, are at a minimum. If at such output the firm were to make an abnormal profit—which would be the case if curve AC dipped below the demand curve at output OM—new firms would be attracted into the industry with the result that prices would tend to fall and costs would tend to rise, thus eliminating the abnormal profits. Conversely, if curve AC were above the demand curve at all points, the operations would be conducted at a loss and some firms would be forced out of business. Factors of production would thus be released for use by other firms, producing a diminution in cost, while at the same time prices would tend to rise because of the reduction in output. Ultimately an equilibrium would be established (as illustrated in Fig. 8) in which the price per unit received by the firm for its product would just cover its average cost per unit, including a normal profit.

Under these assumed conditions, what relation must exist between factor costs and factor marginal products if the firm is to be in perfect equilibrium? In the first place, the costs of the various factors of production must be in proportion to the value of their marginal physical products. Assume that there are only two factors of production: labor (L) and capital (C). Then equilibrium of proportions of the factors will be attained when, and only when, the following relationship obtains:

$$\frac{\text{Marginal product}_L}{\text{Cost}_L} = \frac{\text{Marginal product}_C}{\text{Cost}_C}$$

This condition of proportionality of marginal products is simply another way of stating that the method employed in a position of equilibrium must be the cheapest method of producing the desired output.[7] If the value of the first fraction is greater than the second, it will pay the employer to use more labor and less capital in producing any given output. The result of this adjustment will be to reduce the marginal product of labor (because of the effect of diminishing returns) and to increase the marginal product of capital. Conversely, if the price of labor should rise (the denominator of the first fraction), the employer will reduce his use of labor, thus increasing the marginal product of labor, and substitute capital for it, thus reducing the marginal product of capital. Thus the condition of proportionality of factor costs and marginal products must be realized if no inducement is to be offered the firm to alter its method of production.

But this condition, although necessary to equilibrium of the firm, is not a sufficient condition of such equilibrium. That is, even though proportionality is achieved, an advantage may still remain to a firm to alter its employment of factors. For example, if the values of the marginal products of both labor and of capital exceed their respective costs, it would be profitable for the employer to increase output even though the condition of proportionality were satisfied. The increment in total revenue attributable to utilization of additional units of these factors would exceed the addition which they make to total costs. Therefore, it would pay to hire more labor and purchase more capital. On the other hand, if the costs of labor and capital respectively exceed the value of their individual marginal products, an employer could increase his profits by curtailing use of both factors. Such curtailment would produce some decrease in total output, but under the conditions postulated, the reduction in revenue would be less than the saving in cost.

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[7] In the technical terminology of an important book on the subject, the requirement of proportionality of marginal products and prices becomes the condition that the price ratio between the two factors must equal their marginal rate of substitution. See J. R. Hicks, *Value and Capital* (Oxford, The Clarendon Press, 1939), p. 86.

The all-inclusive condition of equilibrium is that the cost of each factor must be equal to the value of its physical marginal product. This condition is broader than that of proportionality. Obviously, if the marginal products of labor and capital are equal to their respective costs, they must also be proportional to their respective costs.

Equilibrium in Monopolistic Competition

In the actual business world, of course, this equilibrium position in which all factors receive the value of their respective marginal physical products is never attained. In fact, there is not even a tendency toward this particular equilibrium position (although, as will be elaborated below, there is a tendency toward a different equilibrium position), because under monopolistic competition, the wage of labor will always be less than the value of its marginal physical product, even if employers pay labor its full marginal revenue product.

Under conditions of monopolistic competition with sloping demand curves, an employer cannot pay all factors the value of their marginal products because the sum of the incomes so computed would be greater than the total product. The sum of the incomes of the factors, computed on the basis of the value of their marginal physical products, and the total product which they jointly produce will be equal only when the productivity function is a "homogeneous function of the first degree," i.e., when a small proportionate change in all factors together will yield a proportionate change in total product. This condition will be realized only where both average cost and average revenue (or price) remain constant as the amount of all factors is varied. In other words, it will be true only under pure competition with normal profits where for small deviations from equilibrium (the minimum point on the average cost curve AC in Fig. 8, p. 287 both demand and cost curves are approximately horizontal.[8]

In monopolistic competition, if there is a tendency toward equilibrium, it must be a tendency toward equality of marginal revenue products and factor costs, rather than of value of marginal physical products and factor costs. This is more than a mere substitution of terms. It means that the equilibrium of the firm in a monopolistic economy has no significance with regard to the distribution of resources or the maximization of total output in the economy as a whole. A firm may be in perfect equilibrium even though the contribution of the labor employed consists in advertising a useless product. The marginal revenue productivity of labor has no meaning outside the individual firm. It has no social significance. It casts no light on such aggregates, for example, as total product or value of the product available to the consuming public. Only by postulating pure competition—so that the contribution of a factor is measured by the value of its marginal physical product—can income of the factors be related to such concepts as these.[9] For this reason, when we consider marginal productivity equilibrium in the economy as a whole, the discussion will be phrased in terms of pure competition.

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[8] E. H. Chamberlin, "Monopolistic Competition and the Productivity Theory of Distribution," in *Readings in the Theory of Income Distribution* (Philadelphia, The Blakiston Company, 1946), p. 149.

Equilibrium of a Monopsonist

In the preceding discussion, it was assumed that pure competition prevailed in hiring labor, so that the supply curve of labor to the individual firm was horizontal. However, under certain circumstances (which have been considered in the chapter on supply of labor) the supply curve of labor to the individual firm may be less than perfectly elastic. In other words, a firm may require such a substantial proportion of a particular type of labor in an area that it will have to offer higher wage rates in order to attract employees away from other jobs. Such a firm, in estimating its labor requirements, will take into account the fact that its demand for labor affects the market price of labor, whereas the small firm which employs only a few workers will ignore the effect of its demand upon the prevailing wage. The firm which is a large enough buyer of labor so that its demand will affect the price of labor is termed a "monopsonist," by analogy to a "monopolist" who is a large enough seller of a commodity so that his supply will affect the price of the commodity. A comparison of the equilibrium of the monopolist with that of the monopsonist will serve to clarify the principles governing the purchase of labor by the individual firm.

Figure 9 represents the familiar equilibrium of the monopolist in the sales market. Output is indicated along the X-axis while costs and revenue in terms of dollars are indicated along the Y-axis. DD′ represents the demand curve for the product and MR the marginal revenue curve. AC represents the average cost curve and AB the marginal cost curve for the firm. To achieve maximum profits, the monopolist seeks to equate marginal revenue (MR) with marginal cost of output (AB). In other words, he will produce that output at which the addition to total revenue is just equal to the addition to his total cost. If average cost is constant, average cost will equal marginal cost, and as a consequence at the equilibrium output average cost will equal marginal revenue. But if marginal cost (AB) is rising, then marginal cost will be above average cost (AC)

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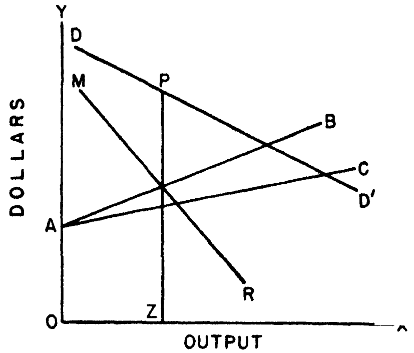
[9] E. H. Chamberlin, "Monopolistic Competition and the Productivity Theory of Distribution," in *Readings in the Theory of Income Distribution* (Philadelphia, The Blakiston Company, 1946), p. 157.



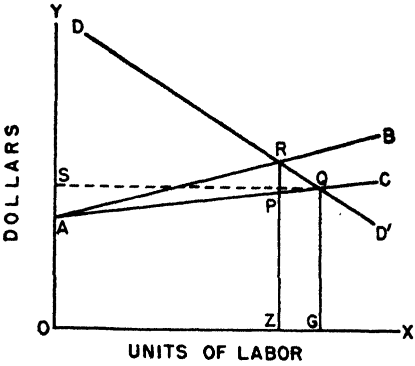


FIG. 9. (*Left*) Equilibrium of monopolist.
FIG. 10. (*Right*) Equilibrium of monopsonist.

for the price (ZP) and output (OZ) at which marginal revenue and marginal cost intersect.

The equilibrium position for the monopsonistic buyer is analogous to that of the monopolistic seller. To achieve maximum profit, he seeks to equate marginal cost of the factor and its marginal revenue product. The marginal cost of labor is the addition to total labor cost which is attributable to the hiring of one more unit of labor. If the employer can obtain additional workers without raising wage rates, the marginal cost of labor and its average cost or wage will be the same to the firm. But if the employer has to offer higher wage rates to attract new labor, the marginal cost of labor will exceed its average cost or wage. For example, if the prevailing wage in the firm had been $1 an hour, the employer may find it necessary to offer a wage of $1.25 an hour to new workers in order to draw them away from other employers. But if he pays this higher rate to the new men, he will also be compelled to pay it to all other men of the same skill in the firm in order to avoid dissatisfaction among the employees, or trouble with the union. As a consequence, the addition to total cost (marginal cost) attributable to hiring the additional workers may be very great, and considerably in excess of the wage paid the new men.

In Fig. 10, units of labor hired by the firm are indicated along the X-axis while the cost of labor and its productivity in terms of dollars are indicated along the Y-axis. The supply curve of labor (AC) is assumed to be rising to the individual firm. The monopsonist has to pay the supply price of the factor (ZP) which will represent average cost to him, but he determines his purchases with reference to the intersection of marginal labor cost (AB) and the marginal revenue product of the factor which is indicated in the demand curve for the factor (DD′). For the equilibrium output (OZ) at which marginal revenue product equals marginal cost of labor, the marginal revenue product (RZ) will exceed the wage (PZ). The significance of this divergence between marginal revenue product and wage will be explored in Chapter 13.

The reader will observe that if the supply curve had been perfectly elastic, as represented by the broken line (SQ), the monopsonist would have purchased OG units of labor. Employment therefore would have been larger even though the wage QG exceeds the wage PZ! Likewise, examination of the curves will indicate that at the same wage of PZ, employment would have been larger had the supply curve been perfectly elastic at that wage. Thus, with a given demand curve for labor, the amount of employment at a given wage will depend upon the shape of the labor supply curve.

In summary, two important qualifications to the hypothetical equilibrium considered earlier in this chapter are required by the existence of monopolistic elements in selling and monopsonistic elements in hiring labor. The former makes it uneconomic for a firm to pay all factors, including labor, the value of their marginal physical products. The latter prevents labor even from receiving a wage equal to its marginal revenue product! As a consequence, in the actual business world, in so far as product demand curves and labor supply curves of less than perfect elasticity characterize particular firms, there will be no tendency for labor to be paid a wage equal to its marginal revenue product.

Demand for Labor in the Economy[10]

In order to consider problems of demand and supply in the economy as a whole, it is necessary to assume pure competition. The schedules and curves which are drawn up are meaningful only under such conditions. Supply and demand curves should indicate that at a given price a certain number of units will be supplied or demanded, as the case may be, and that, if the price is different, a different quantity will be supplied or demanded. Under non-pure competition, however—whether in the market for finished products or in the market for factors—the quantities supplied or demanded will depend also upon the elasticity estimates of individual sellers and buyers. As a consequence, when a price changes under non-pure competition, the amount that will be supplied or demanded in the economy as a whole remains unknown because the effects of the price change upon the elasticities of supply or demand in all the various firms cannot be determined.[11]

In the economy as a whole under pure competition, the total amount of labor demanded at any given wage will be the sum of the quantities demanded by all individual employers in all industries. Each employer will find it profitable to employ labor until the marginal product of labor is equal to the wage. Thus far, in considering the equilibrium of an individual firm, it has been possible to assume that the prevailing wage was established by the market, and that the individual firm simply adjusted its scale and method of production to it. However, when equilibrium in the economy as a whole is the subject of inquiry, it can no longer be assumed that the wage rate is given. The wage, along with the volume of employment, now becomes a variable which must be determined as part of the general equilibrium of supply and demand.

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[10] The discussion of this section is based in considerable part upon J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), chap. 1.

[11] The same difficulty applies to reasoning on the industry level.

Conditions of Equilibrium in the Economy

Labor problems are essentially problems of change in the labor market. Unemployment, wage increases, hiring, firing—these are all associated with changes in the demand for labor. In order to understand the causes of these labor problems, it is instructive to study a labor market which is in perfect equilibrium and in which, therefore, all such problems of change and maladjustment are non-existent. While the actual labor market is never in such a perfect adjustment, there is nevertheless a tendency toward equilibrium of supply and demand.

What conditions would be necessary to achieve perfect equilibrium in the market for labor in the economy as a whole? To answer this question, some highly artificial assumptions must be made. These assumptions remove our analysis a long way from reality, but "in economics, as in other sciences, abstraction is usually the condition of clear thinking."[12]

1. The first assumption is that the equilibrium of supply and demand for labor is maintained by the demand for labor in each firm remaining stationary. An equilibrium of supply and demand might be maintained even though all firms were subject to changing conditions of demand, as long as the fluctuations in demand of particular firms exactly compensated each other so that total demand and supply remained constant. However, for our purposes, the former assumption is more satisfactory. The assumption that demand for labor in every firm remains stationary implies that consumers' tastes, technology, population, and all other dynamic elements which might alter demand must also remain constant.

2. The supply of labor is assumed to remain constant in order that attention can be directed to the nature of the demand for labor in full equilibrium.

3. To eliminate complications produced by varying degrees of personal efficiency, it is assumed that all workers in the labor market are of equal efficiency so that there is no reason for an employer to prefer one man to another.

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[12] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 7.

4. Perfect competition is assumed to prevail both in the market for labor and in the market for finished commodities. This assumption is necessary to eliminate change and movement from the economy. If some firms were making monopsonistic or monopolistic profits, there would be a tendency for entrepreneurs to move into the profitable field of enterprise. This would increase the demand for labor in the particular locality and disturb the equilibrium of supply and demand.

5. Labor is assumed to be perfectly mobile. Therefore wage differentials between areas or firms for the same type of work cannot be maintained since the movement of workers away from the low-wage to the higher wage area or firm will eliminate the differential.

6. All employers are assumed to be motivated by the desire to maximize profits.

Under these conditions, every employer will pay the same wage (assumption 5). Just as in individual firm analysis it was found that equilibrium requires a wage equal to the value of the marginal physical product, so this requirement must also be achieved for equilibrium in the economy as a whole. Every employer will choose a scale of output and a method of production such that the marginal product of labor will be equated to its wage. Any other production policy will not maximize profits (assumption 6).

Determination of the Equilibrium Wage

How high will the rate of wages be in equilibrium? The answer is that the equilibrium wage will tend to equal the product of marginal labor—that is, labor employed in its least profitable use. Assume that a worker employed in farming contributes $10 a day in value of his marginal product, while a worker in the steel industry makes a marginal contribution of $20. This discrepancy in productivity will induce a movement of labor from farms to the steel mills because of the higher wages which steel mill operators will be able to pay employees by reason of their high productivity. Such a movement will have two consequences. The exodus from the farms will raise the marginal productivity of farm labor because a smaller amount of labor will now be employed in conjunction with land and capital than previously. On the other hand, employment of more men in the steel mills will lower the marginal productivity of labor in this activity and therefore tend to reduce the wage which mill operators are prepared to pay. Eventually the value of the marginal product of labor in all its various uses will be equalized so that there will be no incentive for labor to move. Thus, despite the wide variety of products in whose production labor participates, employment will be carried to a margin which is common throughout industry. That margin will be one of equal production of value, and the wage of labor in equilibrium will be equal to the value of its marginal product.

The value of the marginal product with which we are concerned is a long-run concept. That is, it is not measured by the immediate decrease in output which is attributable to the removal of a given worker from a particular job. Such curtailment in product might be very great if the worker had been in a strategic position. Instead, the value of the marginal product is measured by the net decrease in output produced by the withdrawal of a worker after both capital and the remaining body of workers have had an opportunity to adjust to the changed proportions. Capital is conceived of as remaining constant in terms of money value, but capable of changing its physical manifestation. Thus, if we start with 10 men and 10 shovels, and then withdraw 1 man from this work, it can be assumed that after a period of adjustment, the same amount of capital will be invested in 9 larger and more expensive shovels. Or if we add an eleventh man to the original work force, it can be assumed that the capital is now represented by 11 cheaper shovels. Were it not for this possibility of adaptation by capital, the marginal product of additional workers would be very small. An eleventh man with no shovel at all would have a very small marginal product! Marginal productivity equilibrium is meaningful only as a long-run conception. The marginal product of labor in equilibrium will represent the net contribution to total product attributable to the last laborer employed when capital is assumed fluid. The value of this marginal product will be equal to the wage of labor.

Since in equilibrium it is necessary that total demand equal total supply, the wage must be such that it enables all workers who desire work to find employment. If some workers remain unemployed, the wage cannot be an equilibrium wage. The unemployed men will be willing to accept a slightly lower wage than the prevailing rate in order to obtain employment. Since all men have been assumed to be of equal efficiency, employers will not pay some workers more than others. As a consequence, all workers will have to accept the lower rate. Since at the lower rate, more workers will be employed, the marginal product of labor will also be lower (due to the action of diminishing returns). At the equilibrium rate which just clears the market, the wage will be equal to the marginal product of all available workers.

If the wage of labor were to rise above this equilibrium rate, two tendencies would become operative. In the first place, firms would be induced to alter methods of production in such a manner as to use more capital and relatively less labor. In the second place, there would be a movement of investment funds into more capitalistic industries. Since in different industries making different products, the proportion of labor costs to capital costs will differ, a rise in wage rates will have different effects upon profit margins in various industries. The more capitalistic an industry, the less its profits will be curtailed by a rise in wages. Therefore, there will be an advantage for employers in industries using a high proportion of labor to move to the more capitalistic industries when their own capital equipment wears out. The net effect of these two tendencies will be to produce unemployment. But as we have seen, the existence of unemployed workers in the labor market would, under the conditions assumed, force down the wage rate. At the lower rates, there would be a movement back to the methods and types of production prevailing before the wage increase. Therefore in equilibrium, with all workers fully employed, there will be no advantage open to employers in changing methods of production or in shifting to other industries. The amount of labor demanded by each employer will be determined by the number of workers whose employment produces a marginal product just equal to the wage, and the total amount of labor demanded will be the sum of these individual demands.

WAGES AND EMPLOYMENT IN THE ACTUAL LABOR MARKET

In the actual labor market, of course, the highly artificial assumptions of our simplified example are not realized. Labor is not homogeneous, nor is it perfectly mobile. Competition is not perfect either in the market for the finished product or in the market for factors of production. Many employers act irrationally. Changes in technology and consumers' preferences are continually occurring, and these changes produce continuous variations in the marginal product of labor and in the rate of wages.

In the actual business world, therefore, the wage of labor never equals the value of its marginal physical product, nor does it even equal the marginal revenue product of labor in particular firms. There is, however, a tendency for the wage of labor in particular firms to equal its marginal revenue productivity.[13] It is, at best, only a tendency, difficult to establish by empirical or statistical investigation; for the relative fixity of capital postpones adjustments until many years after a change in relative factor prices occurs, and the continual fluctuations induced in demand and supply of labor by dynamic factors obscure the actual adjusting movements that do occur.

Thus, it is quite consistent with marginal productivity doctrine to contend on the one hand that there is a tendency for wages to be equated to marginal revenue product, and on the other hand to concede that a wage increase may have no observable effect upon employment. Indeed, this is probably the position of many intelligent union leaders. They may be led to admit—though in less technical language than is utilized by the marginal productivity theorists—that employers try not to pay labor more than its worth to them. But, they argue, a wage increase today will show its full effect, if at all, only years hence. The union leader who wants to retain the allegiance of his followers cannot realistically take into account what will happen so many years in the future.

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[13] Except for situations in which exploitation attributable to a rising supply curve for labor and other factors exists. These situations are examined in detail in Chapter 13.

Moreover, there may actually be no change in employment! There are many intervening steps before a wage increase is converted into a price increase and curtailment of employment. A wage increase may not even increase unit labor cost if there is a concomitant increase in volume of production or in productivity of labor due to other causes. If unit labor cost is affected, it will produce only a small percentage rise in total costs because labor costs are normally less than 30 per cent of total costs. A 10 per cent wage increase will raise total costs only 2 per cent if labor costs are 20 per cent of total costs. Even if total cost increases as a consequence of the wage rise, there may be no curtailment of output and employment if demand also increases. In an economy which is subject to cyclical, seasonal, and secular changes in demand, it is understandable why the average union leader is dubious as to whether wage increases have any perceptible influence on employment.

Marginal productivity tendencies can show their full effect only if "other things remain equal." That was the purpose of our highly artificial example. But the mere fact that "other things" do not remain equal in reality does not mean that marginal productivity influences are not operative. The tendency of employers to pay labor in accordance with its marginal revenue productivity remains an important factor shaping wage and employment policies.

Marginal productivity merely determines the *demand* for labor. It does not determine the level of wage rates any more than consumers' demand, by itself, fixes the price of automobiles. The equilibrium level of wages in our hypothetical example was determined by the intersection of the demand for labor and of a supply of labor which was assumed fixed. The actual level of market wages is determined either by the interaction of supply and demand in a free market, or by arbitrary government action, or by union control. Whatever the level of wage rates which is set in the market, the demand curve for labor will determine the volume of employment at the given wage. Consequently, the fact that unemployment has been a common phenomenon in our economy does not mean that the marginal productivity theory is wrong. Marginal productivity theorists would say it may simply indicate that the real wage of labor has been set too high to insure full employment.

Marginal productivity equilibrium relies, as we have seen, upon the existence of conditions which are not met in the actual labor market. Actual industrial conditions display a good deal of flexibility in the relationships between wages, prices, and employment which is far removed from the precise relationships assumed in our hypothetical example. In the next chapter, we shall consider the effect which union rules and regulations may have in producing an area of indeterminateness in wage-employment relationships in particular firms.

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Union Rules and Wage Relationships[1]

The essentials of marginal productivity theory were formulated in an era in which the free labor market predominated. When it became apparent that union organization had a definite effect on the wage level, marginal productivity theorists conceded that union bargaining power determined wage levels, but maintained that marginal productivity principles still controlled the volume of employment. Thus the great weight of economic doctrine, both here and abroad, reduced to the proposition that wage increases were detrimental to labor's welfare, since their ultimate effect was to reduce the volume of employment. It appeared as if the wages fund doctrine had been dressed up in new guise and placed as a stumbling block in the path of labor's struggle for higher living standards.

Union leaders, however, were not impressed by the warnings of economic theorists. Union membership boomed. From a weak and hesitant 3 million at the depth of the great depression, union organization had grown by 1946 to approximately 15 million strong,[2] rambling into office and factory, including among its converts teachers, department store clerks, farm laborers, newspaper writers, and government employees. This rise in membership has been matched by a widening of the scope of union rules and regulations which were discussed in Chapter 6. These union rules obviously have an important bearing on the ability of the individual entrepreneur freely to combine the factors of production; yet basic wage doctrine on the whole has accorded them inadequate consideration. For example, such union devices as dismissal wages, seniority provisions, make-work rules, and the like are often considered only as "union policies" with little attempt to analyze the significance of their impact on the determination of wage-employment equilibria in the individual firm.

Since union policies and regulations have already been considered at some length, we shall be concerned here not so much with their substance and motivation as with their effect upon factor combination and the measurement of individual productivities in the business enterprise. Consideration of this problem at this point will prove a useful transition between the foregoing discussion of marginal productivity theory and the discussion of wage changes and employment which follows in Chapter 15. For the impact of union wage demands on the volume of employment must be viewed not against the abstract geometry of theory, but rather in the complex setting of modern industrial organization in which union regulations play a prominent role.

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[1] Acknowledgement is made to The Macmillan Company, publishers of *Insights into Labor Issues* (New York, 1948, ed. by R. A. Lester and J. Shister) for permission to reprint portions of the essay on "Unionism and the Marginal Productivity Theory," contributed to that volume by Nathan Belfer and Gordon F. Bloom.

[2] U. S. Bureau of Labor Statistics, Directory of Labor Unions in the United States, *Bulletin No. 901* (May 1947), p. 1.

The Problem of Remuneration of Non-homogeneous Units of Labor

One of the central problems in economic theory is the explanation of the means by which our economic society determines the worth to it of its individual constituents—how its values, for example, the labor of welder Jones, or bricklayer Smith. The marginal productivity theory, which we have examined in preceding sections of this chapter, was not primarily intended to deal with the problem of remuneration of *particular* individuals in the labor market. Its basic purpose is the explanation of the forces determining the compensation of groups of homogeneous units of a factor, and of the changes in employment of such a factor. Once we drop the assumption that the units of labor are homogeneous, therefore, we no longer can operate within the strict confines of the marginal productivity theory. Indeed, if the laborers in a given trade are not of equal efficiency, then strictly speaking they have no marginal product. "We cannot tell what would be the difference to the product if one man were removed from employment; for it all depends which man is removed."[3]

While the individuals who constitute the labor force differ considerably in their productive efficiency, fortunately for economic theory the services of most of them are not unique. As a consequence, the services of labor of various sorts can be arranged in sequence from that of the lowest paid common laborer to the most highly trained artisan and it will be found that each can be replaced to some extent by the worker or workers directly below him in order of efficiency. Because of this substitutability of one type of labor for another, the range within which a given worker's wage will be set can be determined with considerable precision. If we treat each man as a separate "factor," then his "internal marginal product" will be the difference which would be made to the total product of the firm in which he is employed if *his* labor were removed.[4] This limit will set the maximum wage he can demand. On the other hand, his "external marginal product" is his productivity in the use which just does not pay—in other words, if the rate were slightly lower, some other employer would be willing to employ him. The external marginal product will tend to equal the highest bid which is not satisfied and this will set the lower limit to the worker's wage. If the worker demands a wage higher than his internal marginal product, his employer will dismiss him, since his cost to the firm at the higher rate would exceed the value of his contribution to the revenues of the firm. If, however, the employer seeks to reduce the worker's wage below his external marginal product, the worker will be induced to take a job with other employers. Somewhere between these two limits the actual wage rate will be determined by the process of bargaining.

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[3] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 28.
[4] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 28.

Now in the case of a unique singer who has no ready substitutes the margin between the internal and external marginal product may be considerable. But in the case of the ordinary employee, the difference between the two margins will be insignificant. Since the units of labor are substitutable the one for the other, a worker cannot be paid more than the man who stands next above him in order of efficiency, nor can he be paid less than the man who stands next below him. Another possibility of substitution is afforded by the fact that the employer may prefer to use a less efficient man at a much lower wage, rather than a more efficient worker at a higher wage.

Thus, with the possible exception of men with unique abilities, the wage which particular workers will receive in the free labor market can be determined within narrow limits. On the whole, the more efficient workers will command extra rewards proportionate to their productive superiority. This differential in compensation can be explained by converting services of varying efficiencies into uniform "efficiency units." Then the man who contributes twice as many efficiency units as his less efficient co-worker will be paid twice as much in wages. The marginal productivity theory explains the value of the basic efficiency unit; the theory of differential rents explains the excess in compensation which is paid to the more efficient worker.

What bearing does union organization have upon this problem? The correspondence of a worker's wage with his individual contribution to the firm will depend upon the ability of the employer to determine the economic contribution of the employee. This presupposes that the employer can hire and fire at will, rearrange job classifications, change men from one position to another, and generally substitute freely the combinations of labor and capital within the firm. So long as these means of adjustment are the prerogative of management, a fairly close correspondence is probably achieved between wage and individual productivity. To some extent, the degree of such correspondence is probably a function of the size of the firm. In large corporations, the custom of paying a standard rate for workers of a general class or type has been necessitated by the impracticability of any other system where large numbers of workers are involved. In small firms, however, this is less true, and it was frequently the practice, before union organization, to pay higher wages or bonuses to the men who proved to be most efficient.

The advent of unionism, however, has altered this picture in a significant fashion. The detailed provisions of collective bargaining agreements now guarantee safeguards to employees which formerly were prerogatives of the employer. No longer is control of speed of output, job classifications, and hiring and firing the unrestricted privilege of management. As a consequence, in plants where unions are strongly entrenched, the various workers are not freely substitutable and the comparative efficiencies of individual workmen may be difficult to ascertain even if they could have been without unionism.

Types of Union Rules

Union rules and regulations are of various kinds and have varying significance for the theory of wage-employment relationships within the individual firm:

1. Almost all union rules have the ultimate effect of making the use of labor more expensive to the employer, but some, while having this result, do not at the same time affect either its substitutability or the ease of measurement of its efficiency. For example, in some cities, the printing pressmen's union requires that three workers man a printing press.[5] This rule may prove expensive, if, in fact, two men could handle the press. But it does not prevent the employer from replacing the existing equipment with a much faster press involving a larger capital expenditure. Nor does it prevent him from determining how many labor hours are expended in turning out a given number of product units.

But some union rules make it more difficult for the employer to measure the performance of individual workers. Many unions have a traditional fear of time study and stop-watch methods inherited from past experience with employers who used these methods in furtherance of a policy of cutting piece rates and speeding up the pace of work. Some unions have thrown off this fear to the extent that they now utilize time study themselves. For example, the International Ladies Garment Workers' Union has been particularly interested in using time study as a part of a program of coöperation with management to reduce costs. However, unions in a number of industries still actively oppose the use of time study. The International Photo-Engravers' Union has been encouraging the introduction of reliable cost accounting systems by its employers, but at the same time it has insisted that these systems shall not be used to keep track of how long each worker spends on each job.[6] The Chicago Painters Union prohibits the use of detailed time sheets which would enable the employer to keep track of the time spent on different parts of the job.[7] The Cleveland plumbers local has gone so far as to forbid any member to punch a time clock![8] It is apparent that where such rules are strictly enforced, it becomes difficult for the employer to determine the relative efficiencies of individual employees. Indeed this is the very purpose of the union restriction.

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[5] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 185.

2. Some union rules have the effect of restricting the interchangeability of employees in a given work force. Seniority plans—which will be considered in detail below—may restrict the ability of the employer to switch employees from one job to another, particularly where seniority is set up on a departmental basis. Another union rule which has a similar effect is the notion of "job rights" in a particular type of work. The railroad unions, for example, have been attempting to establish the principle that each and every piece of work in railroad operation, no matter how minute, belongs to some particular class of employee and is in effect owned by that class. The result is that management cannot decide what labor could perform the particular work most efficiently, but must call a member of the craft which "owns" the work.[9] If this notion were carried to its logical extreme so that particular employees were held to have vested interests in certain jobs, which other workers would be forbidden to do, the degree of substitutability between workers of the same broad type of skill would be materially reduced. The result would be that each worker would be placed in a position somewhat akin to that of a monopolist—"he has to look out for substitutes, but they give him a certain amount of elbow room."[10] Thus, a strong union which carried the notion of vested job rights to its extreme could in effect produce a result similar to that in which individual workmen are endowed with unique abilities. In both cases, the range within which the wage of the individual may vary is broadened.

3. Another type of rule renders it more difficult or more expensive to replace labor by machinery and thus reduces the degree of substitutability between capital and labor. The requirement of dismissal wage com-

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[6] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 176.

[7] R. E. Montgomery, *Industrial Relations in the Chicago Building Trades* (Chicago, University of Chicago Press, 1927), pp. 163–164.

[8] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 176.

[9] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 195.

[10] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 33.

pensation to all workers displaced by labor-saving technology is an example of this type of rule, and will be considered in detail in the following discussion. Similarly a union may restrict substitution of capital for labor by imposing high piece rates or output limitations on new machinery, thus making its operation unprofitable. The flint glass workers, for example, were able to restrict the introduction of one of the early glass bottle-making machines by a rule limiting output on it so that the cost of operation by the machine would be the same as by hand.[11]

In the following pages we shall consider a number of union policies and rules which fall within one or more of these three categories. It will be found that these union regulations impose important restrictions on the discretion of the employer in the area of wage-employment relationships. An understanding of their impact is a necessary prerequisite to consideration of the effect of union wage pressure upon employment.

Union Rules and Regulations

SENIORITY PROVISIONS

Institution of a system of seniority assures three important "securities" to the employee: security from the caprice of foremen as regards promotion; security from unemployment through arbitrary discharge; and security for the older employee against discriminatory layoff based on age. While seniority plans may inspire dissatisfaction among more efficient and ambitious workmen, if wisely administered they may well have a salutary effect upon production; for consideration of seniority may lengthen a man's service in industry, reduce labor turnover, and inspire loyalty to the firm. At the same time, however, by the very emphasis upon length of service, seniority plans introduce into wage-employment relationships a consideration extraneous to strict productivity principles, unless, of course, there is a direct ratio between length of service and productivity which is not likely as a general rule.

1. In the first place, there is the obvious fact that management cannot advance a man and increase his pay simply on the basis of his productive ability alone. If *A* works harder, learns faster, spoils fewer pieces, and is generally quicker and more alert about his duties than *B*, a fair wage structure might reward *A* for his superior efficiency. If both were originally employed at the same job, then *A* might be first to receive advancement to a higher paying position where his efficiency will be more adequately remunerated. If, however, *B* has the longer service and is of average efficiency, the usual seniority provision will compel management to reward him rather than *A*.

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[11] G. Barnett, *Chapters on Machinery and Labor* (Cambridge, Harvard University Press, 1926), pp. 73–74.

However, seniority does not necessarily imply a major departure from the principle of remuneration in proportion to efficiency; for the new position will involve new duties and increased responsibilities. If *B* possesses average ability, he will be able to perform these new tasks and therefore his value to the firm will rise in accordance with his increased remuneration. As far as its effect upon promotion and increase in rates is concerned, seniority does not constitute a serious qualification of strict productivity principles for: (a) longer service ordinarily implies greater knowledge and greater efficiency, although not in direct ratio; (b) longer service is rarely associated with a decrease in knowledge and ability (except where age becomes debilitating) and therefore length of service is, in effect, a rough measurement of efficiency; (c) other measures of efficiency are equally rough; (d) since seniority rarely substitutes, but more often supplements, the considerations upon which increases in pay and promotion are based, the actual determination of wage rates which results under an intelligent system of seniority is probably not much different from that which would emerge if productive considerations alone were the basis of the calculation.

2. A second aspect of seniority rules and regulations, however, poses a more serious problem. This is the fact that seniority plans, particularly when they are based on the shop as a unit, interfere with the employer's ability freely to move workers from one job to another and thus shroud in doubt the efficiency of the individual workmen. Indeed, even the marginal contribution of a *class* of workers—say, of welders—may be extremely difficult to ascertain where the class is midway down the seniority list and the union rule requires that when layoffs are made for any reason, employees with the least seniority must be laid off first. For, if as part of a general reshuffling of production, the employer wants to lay off the welders, he may find that he must first lay off his maintenance men, then his machinists, and so on before he can get to this class. The resulting decrease in production, therefore, would afford no indication of the productivity of the welders, but rather of the string of dislocations produced by the union custom of "bumping."

A primary difficulty to be encountered in the setting up of a seniority system in a company is the selection of the proper unit—company-wide, plant, or department—as the basis for seniority operation. If plant-wide "bumping" is allowed, the problems of marginal productivity determination are probably magnified. Under such a procedure, when a man is laid off in the fender section, he can bump a man with less seniority in the wheel section, and so on down the line. The resultant loss in production and efficiency attributable to the discharge of the first worker is likely to be much greater than that which would occur in a plant without seniority. This is a fact of considerable significance, for layoffs in slack periods are one of the means by which employers are able to gain some notion of the value to the organization of marginal employees. To be sure, seniority plans can be devised which will not substantially interfere with the employer's ability to rearrange his working force, but in actual practice, the type of plan which is adopted is more likely to depend upon considerations of union politics than upon a concern for the employer's inclination to experiment with marginal productivity determination.

Of course, the occasion will be rare in which an employer intentionally withdraws a particular worker or class of workers from a job with the sole purpose in mind of ascertaining the value of their net contribution to output. Nevertheless, employers do gain some idea of individual efficiencies and class productivities by ordinary routine shuffling of job assignments and through day-to-day reorganization of shop practice. Union rules regarding "speed-up," job classifications, and seniority probably restrict the employer's freedom in such practices and thus not only make more difficult the attainment of the most efficient combination of the factors, but also introduce a larger degree of indeterminacy into the application of productivity principles in actual business life.

Union Rules Requiring Retention on Payroll of Excess Men

The musicians' union requires a standby crew on a recorded broadcast. It dictates both the wage to be paid and the number of men who must be hired. Does the wage paid these men equal their marginal contributions to broadcaster revenues? It is obvious that their real value consists in the insurance they provide against a strike which would seriously reduce revenues. Then how far can the union push the wages of standby crews? And how many men can it require studios to hire to do nothing?

Practices of this nature—commonly referred to as "featherbedding"—are met with especially in the building and amusement trades. They indicate another way in which unionism introduces into the wage structure criteria of remuneration which depart from the principle of reward in proportion to productivity. Such practices raise the cost of labor and, at some level of wage rates, the broadcasters will refuse to accede to the union demands and will risk a strike. But this limit is much more nebulous than the limit ordinarily operative in marginal productivity determination. It is far easier to calculate the additions to cost and revenue incidental to the employment of one more man in a factory than to estimate the loss of business which will result from a strike called because of the dismissal of one man on a standby crew. To be sure, the broadcasters may compensate for the higher costs by raising rates for broadcasting time. But if advertisers react to the higher rates by reducing the amount of broadcasting time demanded, it is doubtful whether broadcasters would be able to contract their employment of labor accordingly; for the very fact that unnecessary standby crews are employed indicates that the number of men employed is not a simple function of cost and productivity, but rather of the strength of the union and the aggressiveness of its officers.

Thus we have here another example of the indeterminateness which in particular situations is either created, or substantially augmented by the influence of union rules and regulations. A somewhat similar effect is produced by full-crew laws and other union regulations requiring payment for extra men. Marginal productivity principles are operative as a tendency here as elsewhere, but the strength of union organization may have widened the limits within which wage rates can be altered without significantly affecting employment. Of course, some indeterminateness exists even in the absence of union organization; for the principles of marginal productivity operate only as a tendency, not as a precise regulator. It seems likely, however, that the great growth of union organization and the concurrent spread of union rules throughout the fabric of industry has lent new significance to the range of indeterminateness in wage-employment equilibrium.

Dismissal Wage

Union leaders view the dismissal wage not only as a crutch to assist the displaced worker during a period of unemployment, but also as a club to compel management to minimize displacement of labor. As stated by the President of the Congress of Industrial Organizations, "The objective, of course, primarily is not to provide dismissal wages to displaced workers, but to compel industry to keep workers on the payroll by planning the introduction of technology, so that industry will not have to pay the dismissal wages and workers are not displaced."[12] A program of dismissal wages raises the cost of technological change to employers, particularly during periods of depression when it may be difficult to absorb displaced workers in other operations in the plant. By attaching an expense to technological improvement, the requirement of dismissal compensation reduces the substitutability of capital for labor.

The dismissal wage is a means of making unemployment costly to the employer. The very process of adjustment to higher costs on the part of the employer will impose additional costs upon him. The dismissal wage, therefore, adds an additional factor to be considered in marginal productivity analysis. The amount of the potential dismissal compensation can be thought of either as an addition to the cost of employing a man, or as a deduction from his net revenue productivity. Thus, in a plant where dismissal wage plans are in effect, the employer, in hiring a man, will take into account the chance that he may ultimately have to lay him off and pay him a dismissal wage. Similarly, whenever he considers firing a man, he will take into account the dismissal wage and the chance that the size of the work force may have to be increased in the future. Obviously, it will not pay an employer to lay off workmen and give them dismissal compensation if he anticipates that he may have to rehire them in the near future. The possibility of saving payment of the dismissal wage can be thought of as reducing the cost of keeping men on the payroll during the intervening period of slack demand. Thus dismissal compensation would not only encourage employers to plan their technological changes in such ways as to produce a minimum of dislocation, but it would also tend to iron out short-term fluctuations in employment.

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[12] Philip Murray, *Technological Unemployment*, United Steelworkers Publication No. 3 (Pittsburgh, United Steelworkers, 1940), p. 39.

To date, dismissal compensation has been applied only to displacement of labor which is attributable to technological change or to a more or less permanent decline in demand due to changed consumer preferences. If, however, unions succeed in broadening its scope so as to apply it to any type of unemployment—even to that resulting directly from increases in labor costs—then an interesting situation would develop with regard to wage-employment equilibrium in the firm. Assume that a company has such a broad dismissal wage plan in force, and that the union secures a large wage increase. The employer is now confronted with a situation in which maintenance of the same volume of employment has become more costly, but reduction in the size of the work force, while cutting one kind of wage cost, would add another. This dilemma may encourage the employer to seek other ways of reducing costs, rather than to take the course of reducing payroll through a reduction in the work force. Thus it may be found possible to eliminate wastes in use of materials, plant space, and other factors so it will not be necessary to raise prices at all. However, this presupposes a backlog of inefficiency which cannot be postulated as a general condition. In the normal case, the union wage increase will produce an increase in prices but, because of the dismissal wage requirement, employment will not be reduced by the full amount which would have occurred had there been no such plan in effect.

Thus, the existence of a dismissal wage requirement produces a range of indeterminateness in wage-employment determination. In effect, it raises the upper limit to which, in given circumstances in the short run, the wage can be increased without altering the volume of employment. The number of layoffs which will result from a wage increase will depend upon the size of the wage adjustment, the elasticity of demand for the product, the degree to which this form of labor can be substituted by capital, the relation of labor costs to total costs, the size of the dismissal wage, and the length of time for which the changed cost-price situation is expected to prevail.[13] The larger the dismissal wage and the shorter the period for which the changed cost-price situation is expected to prevail,[14] the greater will be the inducement to the employer to retain employees on his payroll. Since the men have become more expensive to the employer whether they are employed or unemployed, it is only logical that the employer should choose to get some work performed for the increased cost. Thus, from the point of view of the individual workers concerned, the dismissal wage has the effect of making the short-run demand curve for labor inelastic.

The dismissal wage has merit as a means of controlling the rate of technological change. When the social cost of lost skills, abandoned towns, poverty, and degradation is taken into account in the balance sheet of technological progress, it is possible that the unrestricted substitution of machinery for labor has produced a rate of progress in excess of what might be regarded as the optimum rate for the community. In so far as a dismissal wage compels employers to adopt a rational plan of technological improvement with a view to minimizing the disturbance to employment, and further compels them to assist the men displaced during the transition period, it simply distributes to management a fair share of the burden of the social cost of change. But where, as in the case just examined, the dismissal wage is associated not with technological progress, but simply with a union wage increase, the same justification for the dismissal wage is not applicable. In the latter case, the effect of the dismissal wage is to make it costly for the employer to discharge workers and to adjust his operations to the new union-imposed cost conditions.

THE GUARANTEED ANNUAL WAGE

Under the typical annual wage plan, the wages bill becomes a fixed cost, which can be computed in advance with the same degree of exactness as rent, taxes on property, interest, depreciation charges, etc. Output and efficiency may vary, but the wage bill is fixed and predetermined. Ascertainment by the employer of the individual efficiencies of employees constituting the basic work force becomes difficult under such conditions. He loses the freedom to fire and hire workers at will. Under the terms of the union agreement, he has agreed to provide a given amount of employment during the year for a given number of men.

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[13] Thus unionism adds here at least two new factors to the four conditions which Marshall enumerated as determining the elasticity of demand for labor. See Alfred Marshall, *Principles of Economics*, 8th ed. (London, Macmillan and Company, 1947), pp. 384–387.

[14] Assuming that anticipated future cost-price changes will be such as to require an expansion of the work force.

The guaranteed employment and annual wage agreement introduces a unique monopoly situation. The traditional monopoly of theory sets price at the level which it expects will yield maximum profits. The monopoly cannot force consumers to purchase more than they wish to acquire at that price of their own free choice. The union, however, controls not only the price, but also the quantity of labor it will offer. If the trade union is more powerful than the employer, it can force him to hire more workers than he might wish to employ at the quoted wage rate. The strong union can face the employer with two alternatives: hire x workers or no workers at all. If the union offer allows the employer some profit, he may find it economical to accept it. Otherwise, he would have to go out of business entirely. Thus the union, through its monopoly control over price and quantity of labor, absorbs part of the employer's profit. Theoretically, a powerful union could increase its guaranteed wage bill until the employer's total cost is only slightly less than his total revenue.[15] In actual practice, however, both the annual guaranteed wage and employment figure have thus far been set at modest levels, but whether this will be so in the future is uncertain.

The guaranteed employment and annual wage plan introduces a considerable degree of inflexibility into the wage-employment relationship, at least as far as the employees who are included in the basic work force. Since, however, at the present stage of development, such plans have usually included less than the total labor force associated with an enterprise, the employment opportunities of the unfortunate fringe of workers who are not covered by the plan may actually be subjected to exaggerated fluctuation. For these workers, employment will vary directly with changing conditions of demand; employers will attempt to limit the benefit of the plan to the smallest number of men who can be kept fully occupied over the year, leaving the full brunt of unpredictable fluctuations in demand fall upon the fringe labor force. Thus a guaranteed employment plan may favor employed workers at the expense of unemployed workers. A firm may have employed 100 workers for an average of 40 weeks a year each. The union negotiates a contract requiring the employer to guarantee 50 weeks of work a year to 80 employees. The workers covered by the plan gain to the detriment of the 20 employees who are now excluded from employment by this employer.

In view of the likelihood that these plans may find increased adoption by industry in the future, it is important to recognize that they imply a change in the mechanism by which wage-employment equilibrium is normally established. Until recently, union bargaining power has been directed only at setting the wage rate high, leaving the number of men to be employed at that rate to the discretion of the employer. But under a full-fledged annual wage plan, enforced by a strong union, collective bargaining would determine not only the wage level but also the volume of employment in the plant.

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[15] For a diagrammatic analysis of the effects of the annual wage, see Wassily Leontieff, "The Pure Theory of the Guaranteed Wage Contract," *Journal of Political Economy*, **54**:76–79 (1946).

The Nature of Union Wage Pressure

In addition to union rules, the very nature of union wage demands and wage policies restricts the discretion of the employer in his remuneration of labor for its services. Thus, the general acceptance of across-the-board wage adjustments and union preference for time pay have rendered more difficult the payment of the individual worker in accordance with his personal contribution to the revenues of the firm.

The General Wage Increase

General wage increases extending equally to all employees have long been common in industry because they lend themselves well to large establishments, create fewer economic grievances, and do not disrupt job valuations. The pattern of uniform wage increases seems well established today.[16] Unions favor uniform general wage increases because they conform to the union policy of "getting something for everybody" and because wage increases which vary in accordance with "merit"—or some other immeasurable intangible—breed petty jealousies with consequent disruption of union morale.

The general wage adjustment raises interesting problems for the theory of individual worker remuneration. If we view the individual workman as contributing a certain number of efficiency units of labor which are rewarded by the employer in accordance with the additional value they impart to the revenues of the firm, then an efficient worker who contributes twice as many efficiency units as a co-worker should receive twice the pay of the latter. On the whole, such a theory affords a satisfactory explanation of the derivation of rates of pay in an organized plant where payment is made by the piece. However, where hourly rates are in effect, union requirements that the rate of pay for a particular job be uniform throughout the plant and that wage adjustments be general so as to maintain this uniformity make it almost impossible for the employer to pay each worker in accordance with his individual efficiency.

Given a normal distribution of abilities in a particular job classification, it would seem that an equitable wage structure should evidence a parallel distribution of rates of pay. However, if such variation exists prior to unionization,[17] union policy is likely to iron out the difference in rates, usually by raising all rates to the level of the highest. In such a case, the most efficient workers are exploited, not through any loss in deserved increase in pay, but rather by a decrease in working opportunities (and therefore in income) as a consequence of the reduction in total output which is likely to follow upon the price increases induced by wage increases of this kind. Furthermore, if the productivity of an efficient man increases, he cannot be fully compensated for it, because a rise in his rate of pay would have to be duplicated for less efficient workers as well.[18]

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[16] F. H. Harbison, "Some Reflections on a Theory of Labor-Management Relations," *Journal of Political Economy*, 54:4 (1946).

While union pressure is likely to raise the average rate of wages prevailing in a plant, the implication is that the disparity of rates between efficient and inefficient worker is narrowed. As a result of the necessity for uniform general wage adjustments, payment of rates in accordance with individual efficiencies becomes impossible. Instead the employer is likely to attempt to equate the average wage of a particular class of employees with its average group efficiency. While this would seem to imply that the inefficient workers gain at the expense of the efficient, it should be remembered that union rules regarding speed of work tend to even out actual efficiencies, regardless of what the natural abilities of the workers concerned may be. For example, an agreement of a lathers union in Chicago provided that 90 yards of plaster board is to be considered a fair day's work.[19] Presumably this limit is observed by the faster as well as the slower workers.

Whether the general wage adjustment is a salutary wage practice is subject to debate. At first glance, it appears that maximization of production could best be achieved by individual wage increases based upon merit, which would offer the greatest incentive to efficiency. But it must be remembered that measurement of individual efficiency and calculation of the marginal contribution of factors in the complex of modern industry is no easy matter.[20] Despite time studies and industrial rationalization, a worker's ability, conscientiousness, and effort are still largely immeasurable attributes which all too easily can be twisted by foremen to advance their own favorites. Hence many union leaders maintain that any decline in production associated with a loss of incentive is more than offset by the increased output attributable to improved morale.

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[17] In many cases it will not. The desire to simplify the wage structure may already have moved management to establish uniformity of rates prior to unionization in which case the advent of unionism serves simply to solidify the status quo.

[18] In other words, unionization makes the supply curve of labor units supplied by efficient workers inelastic to the employer. Cf. Paul Douglas, *The Theory of Wages* (New York, The Macmillan Company, 1934), pp. 251 ff.

[19] U. S. Bureau of Labor Statistics, *Trade Agreements, 1923 and 1924*, Bulletin No. 393, p. 33; S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 170.

[20] See R. A. Lester, "Shortcomings of Marginal Analysis for Wage-Employment Problems," *American Economic Review*, **36**:72 ff. (1946); and *The Economics of Labor* (New York, The Macmillan Company, 1941), pp. 174–184.

UNION PREFERENCE FOR TIME PAY

In industries in which union preference for time work has eliminated incentives, the degree of correspondence between compensation and individual efficiency is mixed. On the one hand, time pay is less suited than piece pay to produce a wage structure corresponding to individual abilities. Piece pay measures output; time pay measures only time. Employers have recognized the desirability of wage differentials reflecting the distribution of abilities and have frequently recommended to unions on time pay that they divide their members into classes on the basis of ability and fix a separate rate for each class, instead of setting a single rate for all men engaged in the same kind of work. But unions, on the whole,[21] have rejected such proposals, and wisely so; for union officials entrusted with setting up such plans would find themselves objects of suspicion, accused of playing favorites among the membership.

Of course, since some unions ordinarily set only a minimum rate for an hour's or a day's work at a particular job, there is no reason in theory why employers should not reward particularly efficient workers by premium pay. However, employers are generally reluctant to pay such bonuses; they may feel that because of the union minimum they are compelled to pay more than the productivity wages to inefficient workers and therefore must compensate for this by paying less than the full productivity equivalent to the more efficient men. Thus union preference for time pay, although it may render productivity payment less exact for individual workers, does not preclude attainment of marginal productivity equilibrium for the group. What emerges is a sort of "average equilibrium" in which the standard union rate tends to equal the average marginal productivity for the group. Such average equilibria, of course, antedate unionism. The complexity of operating a company with several thousand workers makes it impossible to set wages varying according to individual ability. But unions, by extending the scope of time payment as compared with piece and incentive pay have thereby increased the relative importance of such average equilibria in the economy as a whole.

On the other hand, union regulations may actually bring about a closer approximation between earnings and productivity even for workers paid by time. In the first place, variations in efficiency within the membership of most time-working unions are probably not as great as among non-union men in the same trade, because unions tend to attract the better men and union entrance requirements tend to keep out the very inefficient. Moreover, as has already been mentioned, union rules which limit output and speed and prescribe the content of a "fair day's work" tend to flatten out the curve of individual productivities, regardless of the native abilities of the men, so that in terms of actual effort expended, individual productivities and the standard union rate are brought into closer correspondence.

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[21] Two unions in the building trades—the lathers and the woodcarvers—have adopted such plans. See D. McCabe, *The Standard Rate in American Trade Unions* (Baltimore, Johns Hopkins Press, 1912), p. 95.

In piece rate industries, even in the absence of union organization, the distribution of earnings will tend to approximate the distribution of abilities, but here too union regulations may actually increase the degree of correspondence between the two. For example, in the garment trades, union officials actively participate with management in setting piece rates and job standards.[22] Such union surveillance and regulation of piece rate work is likely to remove unfair differentials in rates between workers and secure better standardization of conditions so that actual earnings will more closely approximate individual abilities.

Summary

Unionism is a group movement. The union becomes the exclusive representative of the worker and the individual union member is no longer free to make his own wage bargains in the market. It is not surprising therefore that many union rules and regulations, since they represent the policy of the group as a whole, have a leveling effect upon the remuneration of the membership. Thus we have seen that the more efficient union workers may find that their superior abilities are less adequately compensated, both in terms of earnings and advancement, than if they were to sell their services in a free market. The leveling effect of union organization is also seen in the preference of the CIO for wage increases in cents per hour, rather than in flat percentages, the effect of the former being to raise the great mass of low-paid workers proportionately more than higher paid craftsmen and thus to narrow the relative differential in rates between the two.

Union rules have another important effect which has been noted in the foregoing discussion. It seems possible that various union rules and regulations limiting the rate of substitution of machinery for labor and restricting the freedom of the employer to measure the contribution of labor to the output of the firm may produce a range of indeterminateness in the relationships between wage rates and employment. Because unionism has more than a wage dimension, because it alters the nature of industrial organization and control, and often substitutes rules for entrepreneurial discretion, it may be possible for unions, within limits, to raise the real wages of their membership without producing unemployment.

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[22] See K. Braun, *Union-Management Cooperation* (Washington, Brookings Institution, 1947), p. 116 ff.

The existence of a margin of uncertainty does not mean, however, that unions have discovered an inexhaustible pool which they can drain to the advantage of union labor. It is merely a margin of uncertainty, not an indefinite extendibility of an upper limit. Even if the volume of employment is somewhat insulated from the effect of wage increases by reason of the influence of union rules, a wage increase will reduce business profits and this will have unfavorable repercussions upon the inducement to invest. Union rules may protect organized labor from the full brunt of short-run unemployment, but the level of long-run employment is still dependent upon the *prospect* of a satisfactory rate of profit.

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The Theory of Labor Exploitation and the Minimum Wage[1]

The preceding analysis has indicated that there is a tendency in the long run for the wage of labor in particular firms to equal its marginal revenue productivity—less because of adjustments of wage rates than because of adjustments of employment. However, under certain conditions, a discrepancy can develop between the wage and the marginal product of particular groups of workers. In these circumstances, labor will be paid less than it is "worth" to the employer. Such cases are dealt with in the theory of exploitation.

Unfortunately, the word exploitation has acquired ethical overtones which have encouraged its loose usage in discussions of labor problems. Exploitation has ceased to be a noun and has become a noise. That it has received such emotional content in its everyday usage is, however, no reason why economists should not be able to consider the problem as scientists and give the term a precise meaning, devoid of moral implications. A scrutiny of the literature on the subject, however, reveals that "exploitation" is one of the most misused, ambiguous, and misunderstood terms in the economist's vocabulary. For instance, some economists urge that minimum wage legislation be confined to low-wage areas on the theory that, because the laborers therein are being "exploited," an arbitrary rise in wage rates imposed on these employers will not produce unemployment. Actually low wages are no indication at all of exploitation; indeed, in its common form, there is rather more basis for presuming it to exist where wage rates are high.[2]

Such erroneous reasoning indicates the need for an understanding of the theory of exploitation as a prerequisite to intelligent public policy in the field of minimum wage legislation. Moreover, an examination of the theory of exploitation will afford the student an opportunity to apply the concepts and principles derived from the discussions of the previous three chapters.

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[1] Acknowledgment is made to the *Quarterly Journal of Economics* for permission to reprint portions of this chapter which appeared in the article by G. Bloom, "A Reconsideration of the Theory of Exploitation," *Quarterly Journal of Economics*, **55**: 413–442 (1941).

[2] Since high wages are more likely to be indicative of a rising supply curve for labor. This situation will be discussed in the text.

In consideration of the problem of exploitation, we shall pursue the following procedure. We shall begin with a brief discussion of the Marxian conception of labor exploitation, so that the difference between the historical and present usage of the term will be clarified. We shall then proceed with a definition of exploitation and with a restatement and more complete definition of marginal product and wage—two concepts which we have met in earlier chapters. Thus prepared, we shall inquire into the conditions under which it is likely that labor will receive less than its marginal revenue product—for it is this definition of exploitation which we shall adopt. Lastly, we shall consider the extent to which unions are effective in eradicating sources of labor exploitation.

The Marxian Concept of Exploitation

The concept of exploitation comes to the economist's vocabulary highly charged with political and sociological connotations derived from a long history of usage in social and economic polemics. Of major interest to the economist is the use made of the concept by Karl Marx in his famous critique of the capitalistic system, *Das Kapital.*[3] Marx, the ideological progenitor of Communist doctrine, was profoundly affected by the lot of the factory worker in the early nineteenth century in Europe. To him—as to many other socially minded observers at the time—it appeared as if the capitalistic system promised only increasing poverty and degradation for the toiling factory workers, while capitalistic entrepreneurs waxed rich on profits derived from the labor of women and children. At the same time, Marx was influenced by the classical theory of value, according to which the value of commodities depends upon the amount of labor expended upon their production. Socialist writers before Marx had used this doctrine as the basis for an assertion of the workers' "right to the whole produce of labor," and had treated the reward of the capitalists (rent, interest, and profits) as sheer exploitation, filched from the workers by means of the capitalists' social power.[4] Marx regarded labor power as a commodity, valued like other commodities. Because of its peculiar nature, labor was able to produce a surplus value which was appropriated by the capitalist. This surplus value is the measure of exploitation of the workers by the capitalists.

Marx begins with the proposition that the exchange value of every commodity is measured by the amount of socially necessary labor time[5] embodies in its production. Like other commodities, labor power itself has an exchange value and this is measured by the amount of socially necessary labor time needed to produce and reproduce labor power. In other words, the exchange value of labor power is determined by the amount of labor time required to produce the laborer's means of subsistence. The capitalist uses labor power to produce commodities whose exchange value is then determined by the amount of labor time spent in manufacturing them. But this value will ordinarily be much greater than the exchange value of labor used in their production, so that a surplus remains for the capitalist. It may take 6 hours of work each day on the part of a laborer to produce the value of his subsistence, but the employer can use his labor for 12 hours. The last 6 hours are surplus labor time and produce a surplus value.

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[3] Karl Marx, *Capital*, translated by S. Moore and E. Aveling, 3 vol. (Chicago and London, Charles H. Kerr and Company, 1909).

[4] *Encyclopaedia Britannica*, 1943 ed., vol. 14, p. 997.

[5] The value of a product will not be increased if workers needlessly draw out the time spent in producing it. It is the amount of "socially necessary labor time" which is determinative. This is defined as labor of normal efficiency spent under normal conditions in consonance with the stage of productivity attained by general social

The aim of the capitalist is to increase surplus value and thus increase the degree of exploitation of his labor force. There are two ways to increase the amount of surplus value: (1) by lengthening the working day; (2) by reducing the amount of time required to turn out the means of subsistence for the working class. The latter is accomplished through the use of machinery which increases the productivity of labor in those branches of production which turn out the means of subsistence for the working class. Thus the machine is simply the ally of the capitalist in his never-ending quest for more effective means of exploiting labor and extracting a larger proportion of surplus value.

Marx classifies business capital in two categories: constant capital, composed of raw material and means of production; and variable capital, which is the part spent on purchase of labor power. Only variable capital gives rise to surplus value, because, as we have seen, it is only the use of labor power which can produce a surplus. The rate of surplus value is defined as the amount of surplus value divided by the variable capital. This rate, according to Marx, expresses the degree of exploitation of labor by capital.[6]

This theory, while superficially seeming to explain the then prevailing long working hours and depressed condition of the working class, is actually full of contradictions and fails to explain reality. On the basis of the Marxian theory, the greater the variable capital or the number of workers, the greater will be the mass of surplus value, provided that the rate of exploitation remains the same. Therefore, one would expect that capitalists would find it profitable to employ as large a number of workers as possible and would accordingly limit their expenditure on fixed capital. Actually business behavior is precisely the opposite.

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progress. See Karl Marx, *Capital,* translated by S. Moore and E. Aveling, 3 vol. (Chicago and London, Charles H. Kerr and Company, 1909), vol. 1, p. 46.

[6] E. Roll, *A History of Economic Thought* (New York, Prentice-Hall, 1942), p. 299.

In view of modern advances in the theory of value and distribution, the Marxian concept of exploitation is chiefly of historical interest. This brief discussion has been included in this chapter primarily to emphasize the change which has occurred in the usage of the term "exploitation." For Marx it was equivalent to extortion; in this text it is used, without intending justification or condemnation, as a neutral, technical term denoting a condition in the use of labor by the individual firm.

Definitions and Classification

EXPLOITATION

The term "exploitation" will be used to denote the payment to labor of a wage less than its marginal revenue product.[7] This is, of course, not the only possible definition of exploitation. We might, for instance, adopt the criterion of a wage less than the value of the marginal physical product.[8] But choice of the latter is less fruitful from the point of view of drawing practical conclusions from our study. Under monopolistic competition, all factors, including capital, are "exploited" in this sense,[9] and it is therefore quite uninteresting to examine the conditions under which labor is exploited, since such exploitation will be almost universal. If we adopt the definition of exploitation which uses the value of the marginal physical product as its standard and perfect competition as its norm, the only possibility of removing exploitation is by restoring conditions of perfect competition—which is inconceivable. On the other hand, by adopting the definition of exploitation as payment of a wage less than the marginal revenue product of labor, a much wider field is left open for discussion of the possibility of eliminating the discrepancy through the application of appropriate public or trade union policy.

At the outset, it is important to recognize two important shortcomings inherent in the definition adopted. If we define exploitation in terms of lack of equivalence of wage and value of the marginal physical product, our norm, as has been said, is perfect competition. In a perfectly competitive society, all resources—labor, capital, land—will be allocated to their most productive uses under the beneficent influence of free competition. Consequently, if exploitation is defined in terms of value of marginal physical product and it is found that no exploitation exists, this is an indication that the resources of the economy have been most advantageously distributed. A similar conclusion does not follow, however, when exploitation is defined in terms of marginal revenue product; for labor may everywhere be receiving its full marginal revenue product, yet be maldistributed.

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[7] This term will receive consideration in the next section.

[8] This is the definition adopted by A. C. Pigou, *Economics of Welfare*, 3d ed. (London, Macmillan and Company, 1929), p. 551.

[9] See E. H. Chamberlin, *The Theory of Monopolistic Competition* (Cambridge, Harvard University Press, 1938), p. 183.

This brings us to a second possible shortcoming of the definition adopted in this discussion. No matter how low an employer may force down wage rates, as long as he pays labor its marginal revenue product—which he may easily do by adjusting his employment to the reduced wage rates—the economist is compelled to deny that exploitation exists. As a consequence, critics are prone to attack the definition as justifying the existing distribution of resources and income. A moment's reflection, however, will indicate that there is no basis for this criticism. Social reform need not be confused with economic analysis. In this chapter, we shall be concerned simply with the application to a labor problem of the logical apparatus derived from the marginal productivity doctrine. Our objective is to ascertain what the effect of certain wage policies is, not what the wage policies *should be.*

MARGINAL PRODUCT

The marginal product with which we shall be concerned has been variously called the marginal value product, the marginal net product, and the marginal revenue product. Although it does not really matter which expression we adopt, as long as we use it consistently and are aware of what it means, it seems advisable to adopt the term marginal revenue product.[10] This designation has the merit of serving clearly to associate the concept with the individual firm. The marginal revenue product is the net anticipated addition to the money revenue of the firm attributable to the addition of one more unit of a factor. The question then arises as to how "long" and how "broad" this concept should be construed. Not only may we stretch the anticipated addition to revenue over time, but we may also count in it many things which are often not so included.

There are two arguments for preferring a long-period formulation of marginal revenue product to a short-period one. In the first place, since the whole conception of marginal productivity depends upon the possibility of variation of industrial methods,[11] it seems advisable to confine our attention to a period long enough for such variation to be practically feasible. The difference to total production made by the addition of a single man, when form and quantity of coöperating capital are supposed to be unchanged, will be much less than the true marginal product when capital is supposed variable in form and quantity.[12] In the second place, businessmen often adopt wage policies which can be considered rational only if regard is had for their relation to the long-run marginal revenue product of the labor employed. Thus, if a businessman pays high wages in the expectation that this will keep out a union, he is thinking in terms of the long-run effect of the high-wage policy. If this policy involves payment to labor of a wage greater than its short-run marginal revenue product (though it need not always do so), it does not give a satisfactory explanation of the situation to say that the employer is thereby being "exploited." Rather, it would seem more realistic to reason that the latter expects the long-run marginal revenue product of the non-union, as compared with the union, labor to be sufficient to compensate him for the payment of the high wages.

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[10] E. H. Chamberlin, *The Theory of Monopolistic Competition* (Cambridge, Harvard University Press, 1938), p. 189.

[11] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 20.

[12] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), pp. 20–21.

So much for the "length" of the marginal product. The next question is: how "broad" (how wide in scope) shall we make the definition? The marginal revenue product of labor, as we shall use the term, will consist of any additions to the firm's future revenues of any kind which additional units of labor may be expected to make. Ordinarily, the increments in revenue are conceived as arising out of increases in the production of the physical product. This conception must now be broadened to include additions to revenue which accrue from altering the demand for the product. For example, the United States Potters Association was deterred from pressing for wage reductions in the years 1913–1914 by the realization that this might alienate the Democrats and possibly have unfavorable repercussions on the Administration's attitude toward the tariff duty on pottery.[13] Throughout the history of the agreement between the union and the employers association in the pottery industry, the latter were led to make concessions and pay higher wages than they otherwise would have, largely because they realized that payment of high wages was a valuable bargaining point when demanding further tariff protection from the committees of the House and Senate.[14] Thus, part of the wage paid labor during this period was a selling cost, in that it was directed to influencing the demand for the product through preventing encroachment upon the pottery market by foreign sellers.

A similar situation exists when certain companies are pledged to a high-wage policy. In so far as such a policy is based on the belief that high wages attract better workers or get more work out of laborers than lower wages, no problem is raised for marginal productivity theory. Some companies, however, upon building a new plant in a new area, immediately offer to pay higher wages than any of their rivals largely because of the publicity value of this policy. Part of the marginal productivity of the workers thus secured consists of the addition to net revenue they are capable of making, the demand curve being given, and another part is derived from altering and shifting the demand curve for the product itself. Thus the wage paid can be viewed as a composite of selling cost and production cost. As far as the individual entrepreneur is concerned, he is not likely to distinguish these two elements, although analytically they are distinguishable. Ideally, the entrepreneur should discover the optimum amount of wage selling-cost outlay (i.e., that part of the wage which is intended to alter the demand curve for the product) for every price of the product, and then choose the one of these combinations which yields the largest net profit. Actually, he will probably lump the two different kinds of marginal revenue contributions together; the wage set may not be the most advantageous possible with regard to production and selling cost, each taken separately, but whatever it is, the employer will hire labor at that wage until composite marginal revenue product equals the wage.

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[13] D. McCabe, *National Collective Bargaining in the Pottery Industry* (Baltimore, Johns Hopkins Press, 1932), p. 370.

[14] D. McCabe, *National Collective Bargaining in the Pottery Industry* (Baltimore, Johns Hopkins Press, 1932), p. 371.

The marginal revenue product with which we shall be concerned is therefore a long-term one, whose time dimension and scope vary with the individual entrepreneur's calculations, which in turn are influenced by the peculiar conditions which present themselves in the sale of his product.

THE WAGE OF LABOR

The wage paid to labor has generally been assumed to take the form of a money outlay which goes into the worker's weekly pay envelope. Under modern conditions of employment, however, this view gives only an incomplete picture of the nature of labor cost. It seems more realistic, when dealing with problems of wage theory, to state it in terms of employer's total labor cost outlay per man-hour,[15] or some similar unit. Wages are, of course, the most important consideration, but the costs of safety and sanitary devices, recreational facilities, pension and hospitalization plans must not be neglected. The employer may not take full account of these latter costs in his day-to-day hiring; yet in the long run which we are considering, they must receive due consideration if profits are to be maximized.

Indeed, when national or regional wage agreements are in force in piece rate industries, for example, the standard piece scale may remain largely unchanged for a considerable period, whereas there will be frequent adjustments from time to time in the "conditions" of work. Merely to look at the rigid prices of labor in such an industry during a period in which there had been a considerable increase in the marginal productivity of labor might yield the incorrect conclusion that labor was not sharing in the results of this increased productivity and so was being exploited. Actually, the equation may come about, imperfectly of course, through a gradual improvement of the conditions of work. Therefore, although this discussion will continue to use the word "wage," this term should be interpreted to mean employer's outlay on both wages and services on behalf of the labor force.

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[15] This usage was suggested by the article by M. Bronfenbrenner, "The Economics of Collective Bargaining," *Quarterly Journal of Economics*, **53**:535 (1939).

Classification of Exploitation

Cases of exploitation may, for purposes of discussion, be conveniently divided into two categories: non-deliberate and deliberate. Exploitation will be said to be non-deliberate if the discrepancy between the marginal revenue product and the wage is traceable to conditions which are beyond the employer's control—for example, the existence of discontinuities in the demand curve or of a less than perfectly elastic labor supply curve. Exploitation will be said to be deliberate, if the employer consciously attempts to pay labor less than its marginal revenue product, even though conditions are such that he could pay the marginal revenue product if he so desired. It is with regard to these cases that the greatest confusion prevails. Our examination will show that the ordinary "sweated industry" argument, which falls in this category, is fallacious, because the cases in point do not usually constitute exploitation, though they may give rise to exploitation under certain circumstances.

NON-DELIBERATE EXPLOITATION

Undoubtedly, a common source of discrepancy between marginal product and wages is employer ignorance of the most profitable combination of the factors. However, to examine this possibility in detail would involve a consideration of the validity of the marginal productivity theory *per se*, which undertaking is beyond the scope of this chapter. For the purpose of the following discussion, the assumption can be made that, despite the inexactness of entrepreneurial calculations, the general principle of maximization of profits, one phase of which is equation of marginal revenue product to marginal cost, is nevertheless operative.

Rising Labor Supply Curve

Perhaps the most commonly mentioned source of non-deliberate exploitation is the lack of perfect elasticity in the supply curve of labor. This condition may involve two possibilities: either the employer is faced by a perfectly inelastic supply curve for a considerable range (as, for example, might be the case of an employer having a closed shop where the union pursued a highly restrictive membership policy); or the supply curve is positively inclined, but is not perfectly inelastic (perhaps for skilled labor). In the former instance, the employer may be compelled to stop adding workers short of the point of equality of marginal revenue product and wage merely because there are no more workers to be had. In the latter, the entrepreneur equates marginal revenue product to the marginal cost of labor.[16] But since with a rising supply curve for labor, marginal cost of labor will be higher than the wage, at the point of equilibrium of marginal cost and marginal revenue product, the marginal revenue product of labor will also be above the wage. Labor therefore will be exploited.

Since a rising supply curve for labor tends to produce exploitation, it seems that exploitation, as we have defined it, is more likely to exist where there is a scarcity of labor than where there is a large pool of unemployed labor. It seems certain, at least, that a high price for labor is no evidence of the absence of exploitation.

The Cost of Change

Stability of prices may be sought because it is a simple policy and because the wisest policy is hard to discover.[17] Moreover, it is often the least expensive policy as well. The fact that there is a cost of change involved in altering prices may give rise to exploitation. This cost may arise from two sources: (1) from the difficulty of ascertaining the best combination of factors and (2) from the expense necessary to inform the public of a change in the price of the product.

As an example of the first type, let us suppose that a firm has been maintaining a fairly stable price and then a small fall in wages occurs. In this event, the employer may feel that the trouble and expense of calculating what the new price should be would be so great that it would be cheaper to leave the price as it is. Here he maximizes his profits "by remaining ignorant." As a result, there may be no change in price at all, and marginal revenue and wage need not be equated. Labor would therefore be exploited. If the wage change occurs in the opposite direction, however, then it is employers who will receive less than their full marginal revenue product. Thus the cost of change cuts both ways, and there is no reason to believe that it is a source of continuing exploitation of labor alone.

What, then, about our second type of cost of change—that which is attributable to increased selling costs accompanying a change in price?

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[16] The reader is referred back to Chapter 11, on the demand for labor, in which the relationship between marginal cost of labor, supply price of labor, and marginal revenue product, are fully discussed.

[17] A. R. Burns, *The Decline of Competition* (New York, McGraw-Hill Book Company, 1936), p. 196.

If wage rates fall, an employer still may not lower his price, if there is an added cost, such as advertising expense, connected with informing the buying public of the lowered price. The employer would weigh the lower wage against the increased revenue (if any) which would accrue if he lowers his price and would subtract from the latter the cost of advertising for the additional output. Suppose, for example, a clothing house conducts an extensive campaign to impress upon the public that "Hall's Suits Sell for $9.99." These suits are sold at this price for a year; then a small decline in wage costs occurs, which would make possible a reduction in price. Assuming that there is no question of oligopoly to complicate the picture, the decision of the manufacturer to change his price will depend upon whether or not the additional revenue expected to be derived from the sales at the lower price will be great enough to reimburse not only the costs of producing the added output, but also the cost of an advertising campaign necessary to inform the public that the clothes no longer sell at the conventional price. In other words, the various points on the demand curve which the economist draws with such ease may in reality be separated, the one from the other, by vigorous advertising campaigns. The cost of change involved in altering such conventional prices is a factor encouraging continued price inertia.

The effect of such inertia is that the wage is often equated not to the marginal revenue product, but to marginal revenue product minus the cost of advertising.[18] Since this is, no doubt, a common case, being a normal consequence of monopolistic competition, we might prefer not to speak of this as exploitation. Perhaps distribution theory should take account of this phenomenon by recognizing that labor often receives not its marginal revenue product, but only the latter minus some deduction for selling costs. It might, for example, be argued that just as the recognition of the ubiquity of product differentiation and sloping demand curves has led us to consider as "normal" what formerly would have been considered "abnormal" on the basis of standards of perfect competition, so now the acceptance of the prevalence of selling costs in a monopolistic economy compels a redefinition of exploitation to take account of this phenomenon.

Such a redefinition, however, is not required because product differentiation and selling costs have quite different implications for the theory of exploitation. The existence of sloping demand curves implies that labor

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[18] Of course, marginal revenue product might be defined as net of all expenses which are connected with the increment in employment, in which case, the deduction for selling costs would already be included in the concept of marginal revenue product and hence marginal revenue product would be equated to the wage despite the existence of advertising expense. The writers have preferred not to adopt this "net" definition, because it is less convenient for elucidating the significance of selling costs for exploitation theory.

(as well as other factors) can never[19] receive remuneration equal to the value of its marginal physical product. But the prevalence of selling costs does not permit us to make a similar statement with regard to the marginal revenue product. Exploitation from this source may, indeed, be general, but it can never be directed at all factors at once, nor is it likely to result in substandard remuneration to any particular factor over a long period of time. In the example cited above, labor was exploited, since it received payment of a wage equal only to its marginal revenue product minus some deduction for the cost of advertising. On the other hand, when wages rise, the employer may not increase his price, if there is a cost connected with informing the public of the change in price policy, and so (unless the employer chooses to deteriorate his product) consumers benefit through the maintenance of the former price despite the higher level of costs. In this instance, the wage is equated to the marginal revenue product plus the cost of advertising, and hence it is the employer who is exploited.

Thus, where selling costs are significant, fluctuations of wages, within limits, will be absorbed by altering the size of the shares of the factors, rather than by changes in output. Graphically, this situation implies that the marginal revenue product of labor—in the sense of the value above or below which the wage cannot go without inducing a change in the number of men employed—is not a single line, but rather a band whose width is determined, among other things, by the extent of additional selling costs associated with each output. Thus another distinguishing characteristic of monopolistic as compared with pure competition is the breadth of the marginal productivity curve in the former in contrast to the relative thinness of it in the latter. This is another factor contributing to the result that a wage increase in the individual firm in pure competition will lead to more unemployment than under conditions of monopolistic competition.

Thus, the cost of change arising out of selling cost, like the cost of change which arises out of the difficulty of ascertaining the most profitable combination of the factors, is just as likely to make possible the existence of a wage above the marginal revenue product as one below it. The employer is just as likely to be exploited for short periods of time as is labor. Therefore, redefinition of exploitation in terms of a marginal revenue product which would take account of a deduction for selling costs seems neither necessary nor desirable, since any one factor receives the reduced remuneration only part of the time and the rest of the time is just as likely to have its remuneration increased by reason of the existence of selling costs. It is evident that we cannot look to selling costs as a source of continuing exploitation of labor.

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[19] Except possibly in unusual circumstances such as those depicted in Fig. 11 on p. 329.

Discontinuous Product Demand Curves

Another possible case in which labor will receive less than its marginal revenue product is the situation of a firm confronted with a discontinuous demand (and marginal revenue) curve for its product. Many articles are sold only at standard intervals such as $8.95, $7.95, and $6.95 (perhaps for dresses), or 10 cents, 5 cents, or 1 cent (chewing gum). It is to be admitted that the definition of product and demand in these cases is not easy. For example, does the employer see a demand for dresses in general, a different quality being sold at the three different price ranges? Or does he see the demand for a particular quality of dress at the different prices? The latter, the usual type of product demand curve, seems likely to be even more discontinuous in a case such as this than the former type. In either case, however, the demand curve will be discontinuous, and so exploitation is made possible.

The existence of these "steps," coupled with the utilization of "chunks" of factors, makes *possible* the existence of one type of exploitation. However, such discontinuity is neither a necessary nor a sufficient condition for the emergence of exploitation. That it is not necessary is obvious from the fact that exploitation of the monopsonistic type (see below) can exist even if the demand curve is of the usual smooth type. It is not a sufficient condition, because even if the demand and marginal revenue curves contain steps, nevertheless the marginal cost curve may be such as to cut the marginal revenue curve on a horizontal portion (as in Fig. 11, p. 329); and if we assume, for the sake of simplicity, that marginal cost contains only wages, then in this case there would be no exploitation, since the wage would be equated to the marginal revenue product.

An extreme type of discontinuity of demand, characterized by a "kink"[20] at the prevailing price, is apt to exist under oligopoly. With a demand curve of this sort, the marginal revenue curve will be discontinuous, and so a rise in wage rates, and hence in marginal costs, will not affect output and employment, if it changes the position of the marginal cost curve within this discontinuous range.[21] The only effect that it may have is to cause more intensive non-price competition, such as advertising, by the firms in order to increase their sales and compensate for the rise in costs.

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[20] P. M. Sweezy, "Demand under Conditions of Oligopoly," *Journal of Political Economy*, **47**:569 (1939).

[21] P. M. Sweezy, "Demand under Conditions of Oligopoly," *Journal of Political Economy*, **47**:570 (1939).

This condition would seem to be favorable to a discrepancy between wage and marginal revenue product, but it need not be. In fact, it is possible not only that the wage should equal the marginal revenue product, but also that it should equal the value of the marginal physical product.

In Fig. 11 an extreme case of this oligopolistic condition is illustrated. To show, by means of this diagram, how oligopoly may completely exclude exploitation of any kind, it is necessary to make only four assumptions: (1) the demand curve for the product has a horizontal portion; (2) wage costs are assumed to be all of marginal costs; (3) the marginal cost curve[22] is such that it cuts the demand curve in the horizontal range[23]; (4) the supply of labor over the relevant range is perfectly elastic. (This might easily be the case in depression years, at least within limits, and it

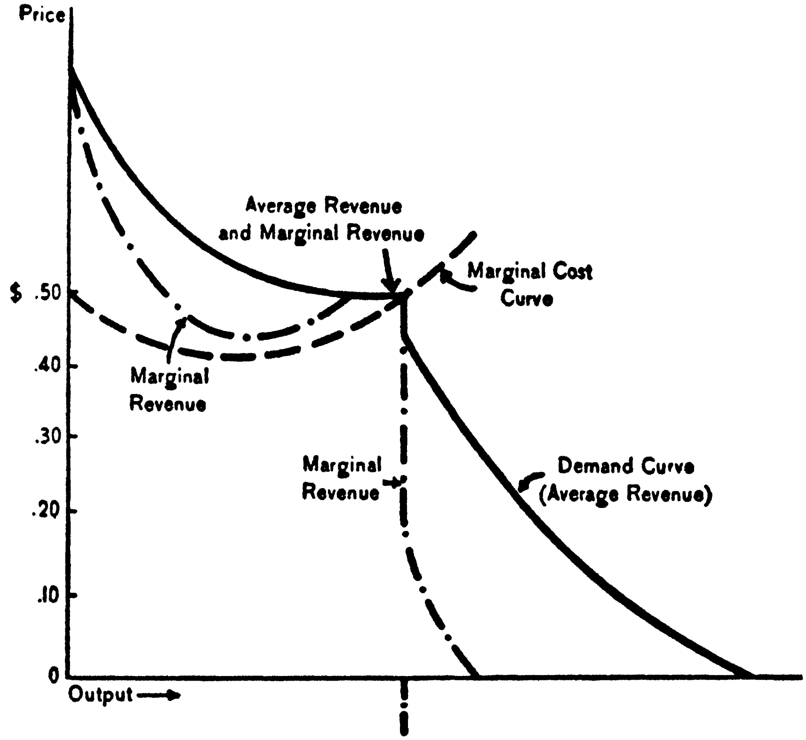

FIG. 11. Equilibrium under oligopoly. Reproduced from article of G. F. Bloom in *Readings in the Theory of Income Distribution* (Philadelphia, The Blakiston Company, 1946), p. 257.

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[22] The marginal cost curve here rises, not because of a rising labor supply curve (this is ruled out by assumption), but because of the effect of diminishing returns.

[23] If the demand curve has a "kink," but does not become horizontal at any point, then average revenue and marginal revenue must always diverge, and hence the following analysis will not hold.

is precisely in such times, when businessmen are particularly fearful of cutthroat price-cutting, that a corner is likely to be found in the demand curve.)

Given these conditions, the oligopolist acts no differently from a pure competitor. A moderate rise in marginal costs will cause a decline in output with no immediate rise in the price charged by the seller. Furthermore, with the given output as pictured above, since marginal revenue equals average revenue at a price of 50 cents, marginal unit wage cost will equal both marginal revenue and price. Therefore, labor will receive not only its marginal revenue product, but also the value of its marginal physical product (the price per unit of the commodity). Here, then, where we should least expect it, we find the possibility that the consequences of pure competition may be reproduced.

But of far more theoretical interest and practical importance are those cases in which the marginal cost curve is distributed from its equilibrium position and cuts the marginal revenue curve on a discontinuous portion. This would be the case in Fig. 11 if a fall in wage rates lowered the marginal cost curve so that it no longer cut at the corner but rather on a vertical part of the marginal revenue curve. Or if the discontinuity is not so severe, but more in the nature of a "hump," there will be some range, nevertheless, in the marginal revenue curve which will be discontinuous, and if the marginal cost curve comes to rest in this range, the marginal revenue product and wage will not be equal.

Such discontinuity of demand and, concomitantly, such a possibility of an inequality between marginal revenue product and wage is particularly likely in industries in which prices have been stabilized. The United States Steel Company, for example, announced and maintained a price of $28 a ton for steel rails for 180 months.[24] During this period of 15 years, it is certain that wage rates did not stay constant; yet changing cost relations had no effect upon price. This suggests that in many of such cases production is not carried to the point where short-run marginal costs equal short-run marginal revenue,[25] and that the wage is not equated to the marginal revenue product. However, the mere fact that wages change, while prices do not, is no evidence of the existence of exploitation; for equality of wage and marginal revenue product can be maintained with a changed wage rate and an unchanged price through (1) varying the proportions of the factors of production and/or (2) varying the volume of output. For example, if wages rise, but the fixed price is maintained, the equality between marginal revenue product and wage may be reëstablished by bringing old machines into use and otherwise substituting capital for labor. Some such substitution is possible, even in the short run. Secondly, the firm may refuse to fill all orders immediately at the fixed price and attempt to postpone deliveries and spread commitments over time. Both of these lines of action would reëstablish equality through a displacement of labor, despite the continued maintenance of the fixed price. But both are definitely restricted in scope. Assuming a relatively uniform demand at the stable price, not much leeway is left either to vary output or the combination of the factors as cost-price relations change.

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[24] A. R. Burns, *The Decline of Competition* (New York, McGraw-Hill Book Company, 1936), p. 205.

[25] P. H. Douglas, "The Effect of Wage Increases upon Employment," *American Economic Review*, **29**:153 (1939, supplement).

If the rigid price is maintained, when wages rise, and conditions of demand remain relatively unchanged, the tendency will be for the employer to be "exploited," for he will be paying labor more than its short-run marginal revenue product. True, he could curtail output and reduce his labor force; but since his price has not changed, such a policy might mean disappointing some of his customers. Consideration of customer good will, therefore, may be an important factor deterring him from altering his output. On the other hand, if wages fall, there will be little incentive to hire additional men at the lower wage, so long as the same price is maintained, and sales are limited to the given volume. As a result, labor will be exploited, i.e., it will receive less than its marginal revenue product.

Deliberate Exploitation

We turn now to those cases of exploitation which may be termed deliberate. Here would be included the case of monopsonistic discrimination in the hiring of labor. Discrimination may be of two kinds: either payment of the same wage to men of different efficiency, or payment at different rates to men of the same efficiency, as would occur if a separate bargain could be made with each man, assuming that the men differed in the minimum wage they were prepared to accept.

In the first case, different men represent different amounts of efficiency, and though each man is paid the same wage, differing amounts of efficiency units are paid for at the same rate. An efficiency unit may be defined as an hour's work of a given skill and efficiency. If the labor of workers of varying degrees of efficiency is converted into such efficiency units, it will be found that the efforts of the more efficient employees are equivalent to a larger number of such efficiency units than the effort expended by less efficient workers in the same number of hours. Suppose the employer pays a uniform wage per hour regardless of efficiency and sets that wage in accordance with the marginal revenue product of the least efficient man. In that case, the least efficient man will not be exploited but all men of higher efficiency will be, because they receive no more pay, despite the fact they contribute more efficiency units of labor. In the second case, wherein different wages are paid to men of equal efficiency, the wages of the most expensive man will be equal to the marginal productivity of the group, but since all other men will receive lower wages, all but the highest paid will be exploited.[26]

This discrepancy between marginal revenue product and wage is not, however, the kind that is usually thought of by labor economists when they speak of exploitation. Rather, the argument usually runs in terms of the "sweated industry." In these industries, the greedy employer is pictured as having extracted an extra profit by working his employees long hours at wages far below their contribution to the product. The reasoning involved in reaching this misleading conclusion goes something like this:

The same kind of labor ought to receive equal remuneration for its work in all parts of the economy. Therefore, if wages are substandard in certain industries, in the sense that they are lower than those that prevail on the average for a particular type of labor, then, it is argued, the laborers in these industries must be receiving less than their marginal contributions to the product.

This conclusion does not follow from the premises, nor are the premises applicable to an economy in which rigidities of various kinds are not the exception but the rule. The marginal contribution of a worker in a monopolistic economy is associated with the fortunes of the individual firm in which he is employed; this gives rise to differences in the rate of pay for the same kind of labor which could be eliminated only if labor were perfectly mobile. That labor is not perfectly mobile is evident, and hence there is no difficulty in accounting for the co-existence of different wage levels for the same kind of labor. It should be noted, however, that the fact that immobility of labor makes it possible for employers to secure labor at a lower price than would prevail in a fluid labor market does not, at the same time, imply that the underpaid labor is being exploited. The existence in the economy of different levels of pay for the same kind of labor is quite consistent with payment to labor in all its employments of its full marginal revenue product.

If wages are low in certain industries, they are low, in the majority of cases, not because the employer is exploiting the workers, but because the marginal productivity of the workers themselves is low. The mistaken views advanced in connection with the "sweated industry" argument rest upon an apparent belief that the employer wants to pay less than the marginal revenue product because it is profitable to do so. This is not so. In fact, it can easily be shown that if the employer has succeeded in forcing down the wage rate, it is in his interest to hire more workers at that rate until the wage equals the marginal revenue product of labor. If, for example, we assume that labor is the only variable cost, then marginal cost will consist entirely of wages. The entrepreneur attains his maximum profit at the point where marginal cost equals marginal revenue; according to our assumptions, this will also be the point where the wage is equated to the marginal revenue product.

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[26] J. Robinson, *The Economics of Imperfect Competition* (London, Macmillan and Company, 1933), p. 300.

An employer may want to pay his employees a lower wage in order to be able to lower costs sufficiently to add more workers and so to increase output. *For a time* there may be an inequality between the reduced wage and the marginal revenue product, but this is only a transitional state. When production is increased at the lower level of costs, the marginal revenue product will again be equated to the wage paid. The end in view, the goal toward which the employer directs his efforts, is this equilibration, because only this implies maximum profits.

What is more, the motivation is there, whether there is competition among employers or not, except, of course, if the monopsonistic buying of labor leads to a rising supply curve for labor, which, however, it need not always do. This basic fact is often overlooked by economists. One writer,[27] for example, speaks of exploitation which may occur owing to the restricted competition for labor, or the concerted action of businessmen to set a wage which is low. This action, however, need not give rise to exploitation as we have defined it, although it is commonly assumed to do so. The workers will, however, be exploited in terms of the optimum distribution of resources. Likewise, moral and physical degradation may result as a consequence of the payment of substandard wages. Yet as long as the wage is equated to the marginal revenue product, the economist is compelled to deny the existence of exploitation, regardless of how low the employer forces down wage rates. It is in dealing with such situations that one comes to realize how inadequately the term exploitation, as herein defined, covers the range of problems which the word has come to connote.

Another well-known economist contends that there is no reason to believe that "employers will pay what they can pay."[28] They will pay workers their full marginal value products "only if the competition among employers for labor is as keen as the competition among wage-earners for work."[29] Now it is quite true that if employers by collective action can set a wage rate without outside interference, they are likely to set it low. But having set the wage, there is, with few exceptions, no reason why they should cease hiring men at this wage before the addition to total revenue added by another laborer is just equal to the wage paid. Therefore, *competition among employers is not needed to assure that labor gets its marginal revenue product*, nor is it necessary that labor be able to migrate away from the particular locality. All that is necessary is that there be a sufficient pool of labor so that increasing amounts of labor can be procured at the same price and that employers pursue a rational course dictated by maximizing profit.

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[27] P. Douglas, "Wage Theory and Wage Policy," *International Labor Review,* **39**:340 (1939).

[28] C. Daugherty, *Labor Problems in American Industry,* rev. ed. (New York, Houghton Mifflin Company, 1938), p. 172.

[29] C. Daugherty, *Labor Problems in American Industry,* rev. ed. (New York, Houghton Mifflin Company, 1938), p. 172.

If, in this case in which the employer (individually or in combination with other employers) is able to set a low wage, exploitation does occur, then this phenomenon cannot be explained by looking at the conditions of mobility of labor alone, or by observing the relations of the various employers to one another in the buying market. These factors are crucial in determining *the level at which the wage will be set;* they are only incidentally important in the creation of a situation making deliberate exploitation of labor possible. The real clue to the cause of deliberate exploitation lies in *the conditions of sale of the product.*

For deliberate exploitation to exist, these requirements[30] must be met:

1. There must be a body of labor such that the employer can secure the same amount of labor at a lower price as at a higher price. This means that the supply curve of labor over the relevant range must be perfectly inelastic;
2. The employer must be able to set the wage;
3. The conditions of sale of the product must be such that there is a kink in the demand curve at the prevailing price.

No one of these requisites, by itself, is sufficient for the existence of deliberate exploitation, nor does a combination of any two guarantee that deliberate exploitation will exist. If all three are present, however, and the employer seeks to maximize his profits, it will be in his interests to pay less than the marginal revenue product.

According to our definition, deliberate exploitation exists when the employer consciously attempts to pay labor less than its marginal revenue product, despite the fact that conditions are such that he could profitably pay the marginal revenue product if he so desired. If, however, the labor supply curve has an elasticity greater than zero and less than infinity, the employer could *not* profitably pay a wage equal to the marginal revenue product of labor, for, in these circumstances, the marginal cost of labor will be above the wage, and since the employer equates the marginal revenue product and the marginal cost of labor, labor will be exploited, even if the employer does not attempt to force down the wage. On the other hand, when the supply of labor is perfectly inelastic over a given range, the employer *could* pay a wage equal to the marginal revenue product without incurring losses, but there is no reason to believe that he will, since he can obtain the labor at any price (within limits). This does not mean, however, that a perfectly inelastic labor supply curve is a sufficient condition for the existence of exploitation, for if the employer can reduce his costs by hiring labor at a lower wage, he will ordinarily also reduce the price of his product. The consequent increase in quantity demanded will increase the employer's demand for labor, while the rise in output will reduce the marginal revenue product of labor, so that a movement will be set up which will tend to restore equality between marginal revenue product and wage. Thus, even if the supply of labor is perfectly inelastic (condition 1) and the employer is able to set the wage (condition 2), continuing exploitation will not prevail. It will be only in the nature of a temporary phenomenon, existing during the period of transition from one level of output to another. The kink in the demand curve (condition 3), by removing the incentive to lower prices as wage costs are reduced, prevents this latter adjustment from taking place, and so permits the inequality between wage and marginal revenue product to persist.

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[30] These requirements do not apply to the forms of *wage discrimination* discussed on pp. 331–332. Wage discrimination must be treated as a special case.

When would an employer force down wages and *not* continue to hire men at the lower wage until the marginal revenue product was reduced to equality with the wage rate? The answer is to be found in point (3) above: when the increased output could only be sold at a price so low that the marginal revenue for the additional sales would be less than the marginal labor cost (assuming for simplicity that wages are all of marginal costs). This situation of inelasticity of demand below the prevailing price may be found, as was pointed out above, in oligopolistic industries where price maintenance is practiced. It may also be found—and here is the grain of truth in the popular writing on the subject—in "sweated" oligopolistic industries. It seems likely, both where conditions are highly competitive and price changes frequent, and also where conditions are non-competitive and prices rigid, that a kink in the demand curve will be common. Although the "sweated industries" are highly competitive in terms of price changes, they fit in the category of "oligopoly," rather than in that of pure or monopolistic competition, for sellers are aware of their influence on the price policies of competitors. The fact that prices change often in the "sweated" oligopolistic industries, but infrequently in mature oligopolistic industries (in both of which the seller is conscious of his rivals' reactions), may possibly be attributed to the greater strength of feelings of *esprit de corps* in the latter and the greater ease of entry and greater frequency of fly-by-night competitors and wildcat firms in the former. A fear of price wars will probably be found in both kinds of industries.

Suppose that under conditions such as these the entrepreneur is producing at a point where the marginal revenue is equal to marginal cost, and where the wage is equated to the marginal revenue product of labor. If, now, he is able to reduce costs, he will have no incentive to lower his price and increase output, for because of the extreme inelasticity of demand for a considerable range below the prevailing price, he would not increase his total revenue by a price cut, but would instead decrease it by starting a price war. In a situation such as this, if the employer is able to set the wage at will, and if the supply curve of labor is perfectly inelastic over the relevant range, he will increase his profits at the expense of his workers, yet will not be induced to hire more men at that wage. Therefore, deliberate exploitation will exist. Here, in every sense of the word, the workers would be exploited by their employer.

The statement is frequently made that southern workers are exploited by their employers. Are conditions present in the South which make possible deliberate exploitation of labor? Possibly they are—particularly condition 2 which requires an unorganized labor market so that the employer can set the wage. But the inference is frequently drawn from the mere presence of regional wage differentials that exploitation must be present. This inference is a possible, but by no means necessary or proper, deduction from the fact of co-existence of wage differentials and apparently equal efficiency of labor.[31]

Most of the confusion arises from a failure to understand the meaning of productivity as it is used in marginal productivity theory. This concept does *not* mean physical efficiency pure and simple. Suppose one finds that a northern worker can tend 100 bobbins per hour and that a southern worker can tend 110 bobbins per hour. Obviously it would be erroneous to conclude from the evidence of the physical productivity of the two workers that the southern worker should be paid more than the northern worker. For the important consideration in wage determination is marginal *revenue* productivity, not mere physical productivity.

If the wage rate is lower in the South, costs will be lower than in the rest of the industry, *ceteris paribus*, and therefore with given equipment, more workers will be employed in a plant of a particular size in the South than in the North.[32] Since, for the larger amount of labor, marginal costs will be lower, output will be larger in southern plants of comparable size. Consequently the addition to total revenue of the marginal worker will tend to be less in the South. Thus, it is quite possible that though the physical productivity of a southern worker is higher than that of his northern counterpart, his marginal revenue product to his firm is less. If this is the case, the co-existence of wage differentials with equally efficient labor forces is quite consistent with an absence of exploitation.

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[31] Statistical studies suggest that southern labor is as efficient as northern labor. See R. A. Lester "Effectiveness of Factory Labor, South-North Comparisons," *Journal of Political Economy*, **54**:60–75 (1946); also "Diversity in North-South Wage Differentials and in Wage Rates Within the South," *Southern Economic Journal*, **12**:254–260 (1946).

[32] While statistical evidence tends to indicate that there is no greater labor-to-equipment ratio in the southern plants of interregional concerns than in their northern plants, this condition is undoubtedly attributable in large part to the fact that the southern plants are newer and therefore more highly mechanized. The labor-capital

Union Policies and Exploitation

Prevalence of Exploitation

Exploitation, as it exists in the actual economic system, would seem to be scattered throughout the economy, arising in different sectors for different causes. In so far as it is general, it must be attributed either to employer ignorance, to the ubiquity of monopolistic elements, or to the dynamic factor in economic life. It does not seem likely that it is so confined to any special sector of industry that this can be referred to as a problem area. If exploitation is more common in certain industries, they are probably not the "sweated" industries, but rather the oligopolistic non-competitive ones, since here we have the possibility of exploitation of both the deliberate and the non-deliberate kinds. Therefore, a minimum wage requirement set at a high rate in these industries is less likely to cause unemployment to ensue than a lower minimum applied to the "sweated" trades. If a minimum wage does not cause unemployment in the "sweated" industries, this phenomenon is evidence, not of the prior existence of a discrepancy between marginal revenue product and wage but more likely of increased efficiency of the employers which was brought about by the rise in wage rates.

The three most important kinds of exploitation would seem to be (1) the deliberate type just discussed, (2) the non-deliberate type caused by a rising labor supply curve (of less than infinite and more than zero elasticity), and (3) the non-deliberate type attributable to stability of price under oligopoly.

Conditions making possible the first may be present, as has been mentioned, in both the competitive oligopolistic industries and in those oligopolistic industries where price competition is largely absent.[33] In the former, the so-called "sweated" trades, the workers are generally not so well organized, so that the employer is better able to force wage rates down. But in these same trades prices change frequently, and this would

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ratio would be expected to be higher in the South only with the same type of equipment; in actuality, southern equipment is newer.

[33] Professor Fritz Machlup has suggested that we distinguish between "oligopolies in fight" and "oligopolies in truce."

seem to imply that even if the wages are forced down low, the employer frequently makes changes in output and so is likely to equate labor's marginal revenue product and wage. Furthermore, since entry is relatively easy in these industries, abnormal profit[34] obtained from exploitation of labor would soon attract new firms into the industry, and this would tend to remove the discrepancy between marginal revenue product and wage. Thus exploitation is possible, but not very probable, in the "sweated" industries. The same holds true for oligopolistic industries characterized by price rigidity. Here there may exist one of the conditions necessary for the practice of exploitation—the lack of incentive on the part of the entrepreneur to lower his price. But the other necessary factors—the ability of the employer to lower wage rates and still get the same amount of labor—may generally be expected to be absent; for in these semi-monopolistic industries unions are likely to be well entrenched[35] and will not allow wages to be lowered at the will of the employer. The latter often must accept the wage rate as a datum and adjust output to it. In so doing, he will attempt to equate marginal revenue product and wage. Thus exploitation of this type is probably not very common.

Conditions of a supply curve of labor of some elasticity short of infinity are, on the other hand, probably characteristic of a large part of American industry. The ubiquity of this phenomenon is, however, no reason for believing that exploitation is equally widespread. A rising supply curve for labor is most typical of skilled wage groups, but these are the very ones that are most likely to be highly unionized. When a trade union sets a minimum wage rate for work of a particular kind, it in effect makes the supply curve for labor perfectly elastic, thus eradicating any exploitation of this kind. Therefore, a rising supply curve for labor, although making exploitation possible, does in a sense produce its own cure—unionism.

UNION POLICIES CONTRIBUTING TO EXPLOITATION

On the other hand, unions may be instruments for *making* labor scarce and therefore union regulations themselves may give rise to exploitation.[36] Restrictive membership policies, long apprenticeship requirements, and similar devices tend to create an artificial scarcity and thus produce a rising supply curve for labor even in trades where none would have existed in the absence of unions. These rules, however, create the scarcity in the union plant where the union can deal with the exploitation by setting uniform minimum rates for particular types of labor; consequently, these union policies are not likely to produce continuing exploitation of labor.

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[34] However, exploitation does not necessarily imply profits. Hence easy entry *need* not remove exploitation. It would remove a difference between *average* revenue product and wage, but not between *marginal* revenue product and wage.

[35] This is not to say that every oligopolistic industry is strongly unionized.

[36] Analysis of this problem is reprinted, with the permission of the publishers, from an article by G. F. Bloom and N. Belfer, "Unionism and Real Labor Income," in *Southern Economic Journal*, 14:290–303 (1948).

Other union policies, however, tend to produce a rising supply curve for labor in *non-union firms,* and in these cases the ensuing exploitation is much less likely to be eliminated. Such a result may follow from widespread adoption of seniority plans in unionized firms which reduces the general mobility of labor. Suppose, for example, that there are several small furniture companies in a particular locality and that demand for the product of one of them increases without any change in the demand for the products of the others. Then, in the absence of any special advantage offered by one company, this employer should be able to obtain all the extra labor he needs without any wage increase or in response to a very small increase in the wage rate, so that for all practical purpose his supply curve for labor may be considered perfectly elastic, or very nearly so. But if the other firms become unionized and the union institutes a seniority program, employees will be reluctant to leave their established employments and lose their preference unless they are offered much higher wages as an inducement. Hence the effect of union-sponsored seniority plans upon *other* firms in the industry or locality is to decrease the elasticity of supply of labor and thus to produce conditions conducive to exploitation.

Unions and Monopsonistic Discrimination

That unionism and monopsonistic discrimination are antithetical is evident almost from the definitions of the terms. As we have seen from our earlier discussion, monopsonistic discrimination may be of two kinds: either payment at different rates to men of the same efficiency, or payment of the same wage to men of different efficiency. Discrimination of the first type is likely to be common in depression periods when men are willing to take a job at any price and the minimum price which they are willing to accept differs because of the variation in the burden of responsibilities. Union organization is, of course, a strong factor in combating such competitive wage-cutting by the workers themselves. Moreover, payment of union out-of-work benefits may make workers less willing to accept low wages. Exploitation of this kind can be eradicated by imposing a minimum wage equal to the wage paid for the most expensive man and since it is union practice to insist upon uniform payment for men of equal efficiency performing the same or similar jobs, unionism tends to eliminate this type of exploitation.

In the second type of discrimination, it would be necessary for the union to demand a different wage for each level of efficiency in order to eliminate all exploitation. Actually the union is more likely to demand a wage equal to, or greater than, the average wage of the group, in which case a sort of average equilibrium is restored. In effect, this means that the men of above average efficiencies are exploited by the workers of lesser efficiencies who are paid the same wage. However, union rules regulating worker output tend to level out individual production and thus make the outputs of all the men conform more closely to the average. Even where the union sets the wage rate equal to the average efficiency for the group, the profits of the employer will be reduced; for while the union will permit variations in efficiency below the average, production above average is frowned upon, and as a consequence the employer tends to get the losing end of the bargain.

This review of exploitation theory serves to indicate that unions can effectively eliminate most types of such discrimination and thus add to labor's real income at the expense of profits. Proponents of unionism therefore have some grounds for their belief that "labor must organize to prevent its exploitation by employers," although these advocates have not used the word exploitation in its precise scientific sense, or been aware of the sophisticated economic analysis upon which a justification of their thesis can be based.

In evaluating the significance of these special situations with regard to the efficiency of unions in raising real labor income in the future, it is important to distinguish two aspects of unionism: (1) the initial impact of union organization; and (2) the effect of continuing wage pressure. Generally speaking, exploitation is non-recurring. When a union comes into an unorganized plant and eliminates exploitation, labor's real income is augmented at the expense of profits. These gains, however, are the fruits of the initial organization, and once the plant has been organized and the existing exploitation eliminated, subsequent union wage increases are not cushioned by the presence of profits in exploitation. Consequently, the wage adjustments are likely to be reflected in price increases with a consequent diminution in employment opportunities.

The Minimum Wage and Wage Differentials

The theory of exploitation has often been invoked to justify minimum wage legislation. However, as the preceding discussion has indicated, there is no necessary correlation between substandard wages and the existence of exploitation of labor. Society may consider substandard wages an evil in themselves, apart from any possibility of exploitation, and seek to eradicate them through minimum wage legislation which sets a floor under wages at some level deemed essential to minimum health standards. The incidence and possible benefits of such legislation can be better understood if the issues are not confused by indiscriminate use of the conception of exploitation.

Federal[37] minimum wage legislation in this country dates from 1938 when the Fair Labor Standards Act was passed. This Act provided for a minimum wage for most employees engaged in interstate commerce or in the production of goods for interstate commerce. During the first year the Act was operative, the minimum wage was to be not less than 25 cents an hour; during the next six years not less than 30 cents, and not less than 40 cents after the expiration of seven years. The only condition under which any industry or portion thereof was permitted to pay less than 40 cents at the end of seven years was if the Administrator by a preponderance of the evidence adduced found that a separate minimum was necessary to prevent substantial curtailment of employment in the industry.

The Act provided for industry committees, composed of representatives of the public, employers, and employees who were to recommend the highest minimum wage rate (not in excess of 40 cents an hour) which would not substantially curtail employment or give a competitive advantage to any group in the industry. These minima were then made effective through wage orders by the Administrator of the Act.

World War II brought a substantial rise in wage levels throughout the country so that by 1945 when the 40 cent minimum was to become general, its impact on wage scales in industry was negligible. In 1945, the President proposed that the minimum wage be raised to 65 cents an hour, but although a number of bills were introduced amending the minimum wage law, no Congressional action occurred until late 1949, when the minimum was raised to 75 cents per hour, but the exemptions in the Act were broadened so as to remove some low wage industries from its coverage.

One reason given for the slow Congressional action was the fear on the part of the legislators that raising the minimum wage level would bring about an upward adjustment of all wage rates and as a consequence a further impetus would be added to the post-war inflationary tendencies. Another alleged reason was the possibility that the rise in the cost of labor would produce unemployment by forcing marginal firms out of business and inducing the substitution of machinery for labor. While some displacement of labor might occur, it is doubtful whether it would reach any substantial proportions as long as business activity continues at a high level. It has been estimated that there are between one and a half and two million workers in industries covered by the Act who would receive wage adjustments if the minimum were raised to 75 cents an hour.[38] This estimate, however, was based on a proposed extension of the Act's coverage, whereas the coverage of the Act was actually narrowed by the 1949 amendment.

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[37] Both state and federal wage legislation are considered in greater detail in Chapter 23 below.

MINIMUM WAGE LEGISLATION AND EMPLOYMENT

A variety of purposes have motivated minimum wage legislation but three objectives[39] have been particularly prominent:

1. To eliminate that part of poverty which is caused by the existence of substandard wage rates which would not afford workers a minimum decent standard of living even if employment were continuous.
2. To eliminate unfair competition based upon substandard wage rates. Southern manufacturers allege that their northern rivals, under cloak of this objective, seek to halt the movement of capital from the North to South, by taking away the South's advantage in wage rates.
3. To increase mass purchasing power.

The success of minimum wage legislation in alleviating poverty and augmenting purchasing power will depend in large measure upon the effect of the wage increase upon employment. In those cases where exploitation has been present, imposition of a minimum wage may increase wage rates without affecting prices or curtailing the volume of employment. In general, however, the wage increase—if not offset by increased business investment or government expenditure—will be reflected in a reduction in employment,[40] although the ultimate adjustment may not occur until years later when capital wears out and can be invested in other industries or more labor-saving machinery.

A minimum wage law has the effect of making certain classes of labor relatively more expensive; at the same time, it raises the marginal costs of the firm. Thus, the impact upon employment will be registered through two types of adjustment: (1) restriction of output and employment because of the higher level of costs; and (2) substitution of machinery for labor. The incidence of unemployment will fall heaviest upon those workers whose skill, ability, or training is so inadequate that their marginal revenue productivity to any particular firm is less than the minimum wage. It should be recognized that achievement of the objectives of minimum wage legislation can ordinarily be accomplished only at the cost of creating a new class of "unemployables" in our economic system.

Case studies in which an attempt has been made to isolate the effect of the Fair Labor Standards Act of 1938 from other factors in the economic scene suggest that the Act had a comparatively minor effect upon output, but that there was a significant displacement of labor through introduction of more labor-saving devices.[41] The effect of the Act upon output and prices was of course obscured by the impact of the World War II production boom. One factor which helped lessen the displacement of labor was the increase in efficiency in firms which had formerly relied upon payment of low wages as a means of competing with their more efficient rivals. The imposition of a minimum wage turned the attention of management in these relatively inefficient firms to discovering new means of reducing costs by saving on overhead, better handling of materials, and reduction in waste. The resulting improvement in efficiency reduced costs and contributed to an expansion of output and employment.

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[38] *Hearings on S. 49, S. 154, etc.* (Bills to Amend the Fair Labor Standards Act), Eightieth Congress, Second Session, 1948, Pt. I, p. 30.

[39] F. H. Blum, "Marginalism and Economic Policy: A Comment," *American Economic Review*, **37**:645–646 (1947).

[40] G. J. Stigler, "Economics of Minimum Wage Legislation," *American Economic Review*, **36**:361 (1946).

At the same time, however, the minimum wage had the effect of increasing the productivity of labor. Since labor had become more expensive as a result of the wage increase, employers were motivated to use it with more care. There was a marked improvement in training techniques, supervision, and in working conditions, so that the productivity of submarginal workers was brought to the level of the higher minimum wage. However, an increase in the productivity of labor, unlike an increase in the efficiency of the firm achieved through savings on other factors, tends to *reduce,* rather than to increase the employment of labor. If every employee were to become twice as efficient overnight, the employer could obtain the same output with half his former labor force. The effect of the minimum wage was to reduce the demand for labor by raising its cost; a concomitant increase in the efficiency of labor would tend to counteract this increase in cost.

But even though the employer might now demand more labor, the very increase in efficiency itself implies that there is more labor available (measured in efficiency units). As a consequence, an increase in efficiency of labor—as distinguished from an increase in efficiency of the firm—will not serve to eliminate unemployment produced by minimum wage legislation.

THE NORTH-SOUTH DIFFERENTIAL

Southern manufacturers argue that because of the generally lower prevailing wage rate in the South, the impact upon that section of the new 75 cent minimum will be more pronounced. Wages have been low in the South for a number of reasons. A major factor has been the presence of a large body of Negro workers who by reason of discrimination in education and job opportunities are compelled to accept a low rate of remuneration for their labor.

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[41] F. H. Blum, "Marginalism and Economic Policy: A Comment," *American Economic Review,* 37:647 (1947), and citations quoted therein, in note 7.

Another alleged factor is the lower cost of living in the South. Actually, the low cost of living is probably more the result than the cause of low wages. Moreover, the difference in cost of living between the South and other regions is much less than most people believe. For example, the total cost budget (including taxes, insurance, food, shelter, clothing, etc.) for a family of four persons in June 1947 ranged from $3004, in New Orleans, to $3458, in Washington, D. C., the lowest and highest cost cities among 34 surveyed by the United States Department of Labor.[42] When it is remembered that this $400 spread represents the difference between the two extremes, it can be seen that the average difference between cost of living in northern and southern industrial centers is not very significant.

Another factor contributing to the lower wage level in the South is the fact that a larger amount of capital is used with each worker in the North than in the South. The supply of labor relative to capital which exists in the South should be rectified by a movement of capital into the South and an exodus of workers from that region. But because of the comparative immobility of both capital and labor, the difference in capital-labor ratios tends to persist. One indication of the size of this discrepancy is that the average value added by manufacture for the Southeast in 1939 was $1948 per wage earner as compared with an average for the United States as a whole of $3130 per wage earner.[43] The more limited extent of unionization in the South compared to the North has also contributed to the persistence of the wage differential.

Because of the type of industry that predominates in the South, it seems likely that the average wage will continue to be somewhat less than in other sections. A larger percentage of workers is employed in industries that require proportionately fewer skilled workers than is true of other sections. Such industries as the manufacture of precision tools, machinery, automobiles, watches, airplanes, and others which require a large proportion of highly skilled workers are not prevalent in the South. Rather the bulk of its manufactures consists of fertilizer, chemicals, iron and steel, textiles, lumber, stone and clay products, and similar industries, primarily preparing raw material for shipment to other sections of the country where it will be used in the manufacture of finished products.

Furthermore, southern industry is relatively small and more highly competitive than that of the North. Of 26,378 establishments classified as manufacturing in 15 southern states, 85 per cent employed 50 or fewer workers, most of the plants being owned by one entrepreneur or a partnership.[44] In the North, on the other hand, the average establishment is larger[45]; the oligopolistic, highly mechanized durable goods producing industry is more typical above the Mason-Dixon line than below it. In industries of the latter type, higher wage costs, by virtue of semimonopolistic control of the market, can be passed on to the consumer in the form of higher prices. Southern manufacture, however, faced by a highly competitive market and an unfavorable freight rate structure finds it less easy to adapt to high wage rates.

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[42] *Monthly Labor Review*, **66**:152 (1948).

[43] J. V. Van Sickle, "Geographical Aspects of a Minimum Wage," *Harvard Business Review*, **24**:289 (1946). Value added by manufacture means the balance remaining after cost of raw materials, fuel, power, supplies, and so forth has been deducted from value of product. Out of this must come wages, salaries, taxes, capital costs, and minor expenses.

As a consequence of these factors, a wage differential has persisted between South and North for many years. World War I, New Deal measures, unionization, and various economic adjustments have brought few permanent alterations in South-North wage ratios for lumber, furniture, building construction, or full-fashioned hosiery, although the Fair Labor Standards Act did narrow the differential in a few industries such as seamless hosiery and perhaps fertilizer.[46] At the date of enactment of the Fair Labor Standards Act in 1938, a substantial North-South differential existed. For example, in July 1939, the average entrance rate for common labor in northern and western sections of the country was 55½ cents an hour, about 20 cents per hour higher than the average of 35 cents prevailing in the South and Southwest. Rates of less than 25 cents per hour were paid in industries located in the South and Southwest to about 43 per cent of the unskilled workers in lumber, to 27 per cent in brick, tile, and terra cotta, to 17 per cent in fertilizer, whereas in the North and West, very few common laborers were paid less than 25 cents an hour.[47]

Yet, despite this marked differential, prognostications that the 1938 law would produce widespread unemployment in the South failed to materialize. Undoubtedly the stimulus of war production was an extenuating factor, but southern industry in recent years has also made great strides in mechanization and more efficient production which have enabled it to bear a higher level of wage rates. Moreover, because of the recent influx of new capital into the South, southern plants are actually newer and more modern than their northern counterparts in such industries as furniture, hosiery, cotton textiles, pulp and paper, and rubber. Furthermore, census data show that the electric energy used per man-hour in southern manufacturing has generally measured well above the average for the northern and north central states.[48]

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[44] *Joint Hearings before the Committee on Education and Labor*, U. S. Senate and Committee on Labor, House of Representatives, Seventy-Fifth Congress, First Session, Pt. II, p. 768. Many of them, too, are in small towns or communities where wages are typically lower.

[45] Size however does not necessarily imply the presence of oligopoly.

[46] R. A. Lester, "Trends in Southern Wage Differentials since 1890," *Southern Economic Journal*, **11**:338 (1945).

[47] *Labor Information Bulletin*, **6**:12 (1939).

THE PROBLEM OF THE REGIONAL DIFFERENTIAL

The request of southern manufacturers for regional differential was made again after World War II when amendments to the Act were being considered. Although such a differential was not granted directly, the coverage of the Act was restricted so that mainly southern industry would benefit. The 1938 Act specifically stated that no exceptions were to be made solely on the basis of regional differences. However, the Administrator could authorize minimum rates set as low as 30 cents an hour even after the 40-cent rate had gone into effect if it could be shown that the 40-cent minimum would cause substantial curtailment of employment in a particular industry. Since the new minimum was voted by Congress within the administrative machinery of the present Act, the possibility exists that southern industry can get more special treatment if a showing is made that this is necessary to prevent substantial curtailment of employment.

Is the South entitled to such an exception? The argument has been advanced that imposition of a uniform minimum wage on South and North alike would slow down the rate of southern industrialization. Indeed, it has been suggested that northern manufacturers desire a high minimum for the South as a form of internal protective tariff to halt the migration of capital to the South[49] and export of goods to the North. However, recent investigations indicate that the wage differential has not been as important a factor in interregional migration of industry as might at first have been suspected. Within the South, employment in manufacturing has expanded no more rapidly in the low-wage sections than in the higher wage sections.[50] Indeed, the greatest rate of expansion has occurred in the relatively high-wage state of North Carolina.[51] Capital has been attracted to the South because of climatic advantages, tractable labor supply, low taxes, access to cheap power, and raw material. Presumably these attractions would still induce capital to move even if wage rates were higher.

A somewhat similar argument stresses the fact that variation in wage rates is the means by which a free labor market brings about an adjustment between areas of relative surplus and areas of relative scarcity of labor. Thus, if there is a surplus of labor in small towns, and in the South generally, wage rates will be lower in those areas compared to the cities of the North. Consequently, an inducement is afforded to capital to seek out the areas of surplus population. Not only is such a relocation of capital socially desirable, but also the regional dispersion of industry is of strategic importance to our national defense.[52] Imposition of a uniform minimum wage, it is contended, will concentrate unemployment precisely in those areas where the need for job opportunities is greatest and will impede the migration of capital. While there is considerable force to this argument, again the rebuttal lies in the fact that it overemphasizes the importance of wage differentials in the location of new industry.

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[48] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal*, **13**:390 (1947).

[49] See, for example, J. V. Van Sickle, "Geographical Aspects of a Minimum Wage," *Harvard Business Review*, **24**:289 (1946).

[50] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal*, **13**:387 (1947).

[51] R. A. Lester, "Trends in Southern Wage Differentials since 1890," *Southern Economic Journal*, **11**:338 (1945).

On the whole, the argument for a regional differential is less compelling today than it was at the time of enactment of the Fair Labor Standards Act. The recent war has left the South with a much more highly trained labor force than it had previously. Recent studies have indicated that a large section of southern labor spread over a variety of industries is equal in efficiency to northern labor employed by the same companies or in the same industries.[53] Many large companies having plants in various sections of the country now follow the policy of paying uniform wages in all their plants. If the tendency toward industry-wide bargaining by unions continues, uniformity in rates will become increasingly prevalent. In view of the fact that wage differentials in labor-market areas within the South actually exceed the true South-North differential in most industries,[54] there would seem to be little justification for a differential minimum wage based solely upon regional considerations.

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[52] J. V. Van Sickle, "Geographical Aspects of a Minimum Wage," *Harvard Business Review*, **24**:283 (1946).

[53] R. A. Lester, "Effectiveness of Factory Labor: South-North Comparisons," *Journal of Political Economy*, **54**:73 (1946). See also Temporary National Economic Committee Monograph No. 5, *Industrial Wage Rates, Labor Costs and Price Policies* (Washington, 1940), p. 57.

[54] R. A. Lester, "Southern Wage Differentials: Developments, Analysis and Implications," *Southern Economic Journal*, **13**:394 (1947).

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Unemployment: Definition and Classification

One of the principal defects of the capitalistic system as it has developed in the United States, and in other countries of the world as well, has been its inability continuously to maintain full employment of men and resources. An understanding of many current labor issues necessitates some examination of the nature and causes of unemployment in the American economy. Unemployment is one of our most pressing social and economic problems, a problem which we failed to solve during the thirties despite a wide variety of panaceas ranging from "pump-priming" to "induced scarcity." Maintenance of full employment has now taken on additional political significance, since a high level of production and employment in this country is essential to the economic reconstruction of Europe and to the preservation of world peace.

We shall hear much about alleged cures for unemployment in the coming years. Guaranteed annual wages, improved public employment offices, planned technological change, shortening of the hours of work, double budgets for government—all of these and other programs have as their objective the elimination or alleviation of unemployment. Such programs, coupled with intelligent governmental fiscal policy, undoubtedly can do much to reduce the incidence of unemployment; yet it is important to realize at the outset that, within the framework of a capitalistic system, there are limits to the extent to which employment can be stabilized.

Irregularity of employment is, in a sense, one of the costs which a system of free enterprise exacts in return for the privileges which it bestows. Thus, the American worker has greater liberty than a worker anywhere in the world to shift his place of employment in order to better his economic welfare. This is no empty gift—on the contrary, it is a privilege of which the American worker has availed himself in a striking fashion. In April 1947, almost 4 out of every 100 employees in manufacturing industries voluntarily quit their jobs, presumably because better opportunities were available elsewhere. In September 1945, the abnormal demand for labor generated by the war production program produced a quit rate of almost 7 per 100 employees.[1]

This freedom of movement, this unrestricted privilege to change jobs and employers freely without permission from a government board, is the most prized gift of a free labor market. But this same freedom of the employee to move is balanced by the freedom of the employer to hire and fire, with the result that the individual employee is subjected to the vicissitudes of his current employer's business fortunes. Similarly, the lack of a central planning board integrating the production and employment policies of various firms and industries means that in certain industries there may be a temporary surplus of labor due to seasonal and other changes in demand, while there are, at the same time, shortages of labor in other areas. Likewise, the uncoördinated investment policies of thousands of independent employers produce a flow of investment which proceeds by fits and starts, with concomitant fluctuations in employment and income, thus giving rise to the familiar pattern of fluctuations known as the business cycle.

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[1] *Monthly Labor Review*, **65**:108 (1947).

Unions and Economic Stability

Unionism represents a reaction on the part of the laboring class to the hardship produced by the unrestricted working of the free labor market. Undue emphasis upon the wage policies of trade unions has tended to obscure the fact that one of the fundamental reasons for the growth of organizations among the working population has been the need felt by the worker for some organization, bigger and stronger than himself, which could afford him security against unwanted change. Capitalism, it has been said, gives a promise of security which it has proved incapable of fulfilling. John Doe gets a job at the *X* steel mill. He is told that if he works hard he may be promoted some day to foreman—"Look at the president! He worked his way to the top!" John Doe buys a home which the capitalistic system enables him to do out of his high wages. He buys radios, an automobile, a refrigerator, and other goods on credit. Then depression strikes and he finds himself unemployed.

The fear of such insecurity—of living always at the whim of the foreman or boss—explains why unions have been able to entrench themselves even in paternalistic firms which have paid high wages and given their employees many pecuniary advantages.

Can unions, through their own policies and in coöperation with management, increase and stabilize employment? This avenue of approach to the problem of stability deserves the attention of both business and labor alike; for the alternative—increasing regulation and planning by government bureaucracy—may ultimately spell the end of private enterprise and the liberties which it confers.

We have already examined some effects of union rules and regulations which attempt to diminish unemployment resulting from technological change. In this and the following three chapters, we shall be concerned primarily with the relationship between wage levels and employment. Are high wages the road to full employment? What are the consequences of wage increases in the individual firm, in the industry, in the economy as a whole? These and related problems will be the subject of our attention in the following chapters. In Chapter 22 we shall consider the effectiveness of shortening the workweek as a device to reduce unemployment. Before considering these interrelationships, however, we shall first have to make clear what is meant by the term "unemployment."

Need for Unemployment Statistics

A variety of social groups are interested in ascertaining the volume of unemployment. Both the AFL and the CIO maintain statistical series on unemployment and the problem is also under constant study by various business-sponsored or independent research organizations. The New Deal spawned a host of governmental agencies which have become a permanent part of our social fabric and which require employment statistics in order to make plans for their operation. Such, for example, are the agencies concerned with social security, unemployment insurance, public works, and relief programs. These agencies, it will be noted, are largely designed to deal with the problem when unemployment has already become a grim reality. But in recent years there has been increasing interest in the role which government can play in combating unemployment in its inception. This approach is exemplified in the establishment of a Council of Economic Advisers whose function is to advise the President on economic matters, to make annual studies of the outlook for employment and production, and to report to the President on the possibility of integrating government investment and expenditure programs so as to achieve the maximum employment in connection with the efforts of private business.

The fact-finding endeavors of the President's Council of Economic Advisers, as well as of other groups and students interested in the labor problem, are handicapped at the outset by the difficulty in adequately defining the phenomenon of unemployment. Logically, there are two distinct problems involved: one of definition, the second of measurement. But for practical reasons, as will become apparent in the following discussion, the necessities of measurement have wielded controlling influence on choice of definition.

What Unemployment Is Not

Unemployment is, in a sense, the negative aspect of the economic process; instead of producing the customary stream of goods and services, the economic machine has somehow, through a defect of its internal mechanism, gone into reverse and produced not goods and opportunities for creative work, but waste and idleness. The fact that unemployment is a negative phenomenon, however, should not suggest the conclusion that it is simply the converse of employment. The problem of definition and measurement is more complex than that. It will serve to focus attention upon the crucial criteria in the measurement and delimiting of unemployment if we first consider what unemployment is not:

1. Unemployment is not idleness. The man who sells apples on the street corner when his plant shuts down is unemployed, but he is not idle. Conversely, the retired postman, the employee on vacation, the habitual tramp are all members—for the time being at least—of the leisure class, but they do not consider themselves unemployed.

2. Unemployment is not the opposite of employment. The automobile worker who is laid off and takes a job as a house-to-house canvasser may consider himself unemployed, though he is working. Similarly, for certain purposes it may be proper to consider skilled workers who are forced to take unskilled jobs as a result of a technological change, as victims of technological unemployment. Some writers have called this stopgap employment "disguised unemployment."[2] In our economy, the relative ease with which an unemployed person can become an independent entrepreneur on a small scale—even if he only sells shoe laces on a street corner—tends to obscure the line between employment and unemployment. As a consequence of disguised unemployment, the full effect of a revival in investment will not be reflected in employment statistics, since many workers simply shift from such inferior occupations to better paid jobs, with no change in their employment status, although their productivity, of course, is increased by the shift. Disguised unemployment, therefore, is a factor to be borne in mind in any appraisal of unemployment statistics; but because of the practical difficulties involved, unemployment estimates do not ordinarily take account of this phenomenon in their calculations.

3. Unemployment is not the difference between the theoretical (potential) total supply of labor, including all marginal groups, and the number of persons actually employed. If this definition were used, unemployment in the United States would hardly ever be below 12 or 13 million.[3] The experience of the war years indicated that in times of extreme labor shortage, high wages will call into the labor market many persons who do not ordinarily consider themselves part of the labor force. Thus in World War II, 75-year-old men came out of retirement to work as messengers for Western Union, while married women left their kitchens to fashion bombers in west coast aircraft plants. Although such persons might be considered part of the labor force for purposes of drawing up a

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[2] J. Robinson, *Essays in the Theory of Employment* (New York, The Macmillan Company, 1937), p. 84.

[3] W. Woytinsky, "Controversial Aspects of Unemployment Estimates in the United States," *Review of Economic Statistics* **23**:68 (1941).

war mobilization program, they should not ordinarily be considered in estimating the seriousness of the problem of unemployment in a peacetime economy; for with the return of normal times, these emergency additions to the labor force usually return to the kitchen and the park bench and do not constitute a labor force which requires our attention.

The potential presence of these groups in the labor market, however, calls attention to one of the most perplexing problems in the measurement of unemployment; for there is a wide variety of such fringe groups which are either on the verge of entering or leaving the labor market, and their inclusion or exclusion from the labor force will materially alter the statistical conclusions of any survey. Thus, for example, there are approximately two million new workers who enter gainful pursuits each year.[4] Consequently, at the time that any count is made of unemployment there will be several hundred thousand persons in their teens who have never held jobs, who may not yet have actively engaged in seeking work, but who nevertheless would be part of the normal increment to the labor force. A similar problem is posed by marginal workers of low efficiency who can secure employment only in good times; college students who work in the summer to pay their way through school; seasonal laborers who may be in and out of the labor market several times within one year[5]; and women who have left their employment for childbearing, but who might return to work if an attractive opportunity presented itself.

Definition of Unemployment

What then is unemployment? Obviously one definition cannot be adequate for all purposes. Thus one economic theorist has defined unemployment as follows: "Men are involuntarily unemployed if, in the event of a small rise in the price of wage goods relatively to the money-wage, both the aggregate supply of labor willing to work for the current money-wage and the aggregate demand for it at that wage would be greater than the existing volume of employment."[6] Such a definition, while useful for a theoretical inquiry into the interrelations of wages, employment, and income, would be of little value to the Social Security Board. Since unemployment is a practical problem in which many governmental and private agencies are interested, it is convenient to define unemployment in such a manner as to simplify the problem of statistical measurement, yet at the same time to provide a figure which includes those groups whose status is of most concern to various social agencies.

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[4] W. Woytinsky, "Controversial Aspects of Unemployment Estimates in the United States," *Review of Economic Statistics* **23**:68 (1941).

[5] Seasonal workers are frequently drawn from the "reserve" rather than the regular labor force. For example, in 1944, when unemployment averaged a record low of only 840,000, agricultural employment nevertheless had a net seasonal upswing of 3 million between January and July. See *Monthly Labor Review*, **64**:6 (1947).

[6] J. M. Keynes, *The General Theory of Employment, Interest and Money* (New York, Harcourt, Brace and Company, 1936), p. 15.

Unemployment, therefore, may be defined as involuntary idleness on the part of those who have lost their latest jobs, are able to work, and are looking for work. To this group should be added the new additions to the labor market—the persons who are seeking work, although they never have been previously employed, and also those persons employed on public emergency projects. The fact that this is more nearly a categorization than a definition should not be a source of embarrassment. As a matter of fact, since various agencies and persons will be interested in different aspects of the unemployment problem, it is more useful to break down employment and unemployment figures into classes, than to lump them together under one wide but nebulous definition.

The Census Bureau Classification of the Labor Force

Table 20 indicates the classification adopted by the 1940 Census. This breakdown, while affording one of the most complete pictures of the employment situation, is nevertheless inadequate in certain respects. Seasonal workers who were neither working nor seeking work at the time of the Census were not included in the labor force. Part-time workers are not definitively treated. Thus, for example, women with part-time jobs may be reported as engaged in own homework, rather than being part of the labor force. The definition adopted by the Census Bureau excludes all those who are willing to work, but are unable to get work because of physical, mental, or moral lack of capacity. It may be argued that many of these persons are not unemployed, but rather unemployable. Undoubtedly this is so in large measure. Even in good times there is a hard core of unemployment composed of misfits who cannot fit in the niches of the competitive labor market. But social mores change, and the concept of unemployability undergoes constant revision in the light of medical advances and a changing conception of industrial relations. World War II, for example, taught employers that there was a definite place for the blind, the maimed, and the crippled in industry; and experience has showed that their accident record is better than that of individuals having their full capacity.[7] Hence one may question the propriety of excluding these persons from the labor force. In spite of all omissions and complexities, the Census breakdown gives an illuminating picture of the extent of unemployment in the United States.

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[7] The Bureau of Labor Statistics estimates that there are about 5 to 7 million impaired workers who could be placed in industrial occupations. A study conducted by the Bureau, based on comparative performance records of 6500 unimpaired workers and 4000 impaired workers (placed in jobs where their impairment did not handicap them), indicated that the impaired were as efficient, had the same absenteeism rate, and had only two-thirds the number of disabling injuries. *Monthly Labor Review,* **63**:919 ff. (1946).

Table 20

EMPLOYMENT STATUS OF THE POPULATION OF THE UNITED STATES, 1940*

Employment Status	*Total*	*Per Cent of Total*
Total population (all ages)	131,669,275	
Persons 14 and over	101,102,924	100
In labor force	52,789,499	52.2
Employed (except on public emergency work)	45,166,083	44.7
At work	44,045,137	43.6
With a job, but not at work	1,120,946	1.1
On public emergency work	2,529,606	2.5
Seeking work	5,093,810	5.0
Experienced workers	4,326,469	4.3
New workers	767,341	0.8
Not in labor force	48,313,425	47.8
Engaged in own homework	28,931,869	28.6
In school	9,013,342	8.9
Unable to work	5,268,727	5.2
In institutions	1,176,993	1.2
Others and not reported	3,922,494	3.9

* Source: Sixteenth Census of the United States, 1940, vol. III, *The Labor Force*, Pt. I, p. 3.

Types of Unemployment

The economist customarily classifies unemployment in terms of the various types which are most commonly manifested in the economy. The particular categories distinguished by the classification are, of course, arbitrary. To some extent they obscure some of the basic theoretical controversies which prevail as to the causes of unemployment. Thus, for example, *technological unemployment*—the displacement of labor attributable to mechanization and use of improved production methods—is frequently distinguished from *cyclical unemployment*—the unemployment associated with the rise and fall of business activity over the cycle. Such a distinction might be considered unwarranted and misleading by those cycle theorists who hold that technological development is a primary cause of the aberrations in investment which give rise to the business cycle.[8] On the other hand, from the point of view of the trade union official, the dichotomy, though arbitrary, may nevertheless prove useful. The trade union may be able to reduce technological unemployment by an agreement with the employer to introduce new machinery gradually, whereas the same union may be powerless to stabilize employment in the face of a cyclical decline in demand. Similarly for the economist, the government official, and particularly for the student beginning the study of this field, classification of the types of unemployment performs a useful function in introducing a measure of order into a somewhat chaotic subject.

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[8] Professor Joseph A. Schumpeter is perhaps the best-known exponent of this view. See his *Business Cycles*, 2 vol. (New York, McGraw-Hill Book Company, 1939).

Therefore, in the following discussion we shall adopt the usual classifications of unemployment. These classifications have grown up largely as a means of indicating that the various types of unemployment to some extent represent differing and distinct causes of aberration in the economic system. However it is clear that the various subdivisions of unemployment which we shall suggest are not mutually exclusive. Moreover, the fact that the "types of unemployment" which the economist adopts for conceptual clarification may not have counterparts in reality is sometimes overlooked by research investigators. One investigator, for example, found from a survey that 4 per cent of total unemployment was technological.[9] This result was obtained by asking the displaced worker what the reason was for his loss of job, and by classifying his unemployment according to his answer. Such a procedure leads to obvious error; for the forces that influence any given economic event are typically manifold and diverse; and to take the opinion of the average worker with regard to the complex forces which may be responsible for his discharge is to expect from him an analysis which even experienced economists have been unable to produce.

Suppose worker John Doe has been laid off at the mine. He does not understand why he has been laid off, but the foreman may have told him: "Now that things are slack, and we have those new machines, we just don't need as much help." Is John Doe a victim of technological unemployment? This is possible, but it is more than likely that other influences were also at work. In what stage of the business cycle did the layoff occur? If this were 1933, should we call it cyclical, and not technological unemployment, or is there any difference? What season of the year is it? Investigation may indicate that layoffs are typical in the off season even in good times. Has the general trend in employment and production been up or down in industry? Coal has been a sick industry for a number of years due to the competition of other fuels. Is John Doe's loss of work simply part of this long-run underlying trend in the industry? And then, of course, it would be pertinent to inquire how high are wage levels, how they compare with surrounding firms and comparable industries. In bituminous coal, wage disbursements represent 72 per cent of total costs at the mine.[10] Obviously a large wage increase secured by a strong union might so cut into profits as to make employers anxious to save expensive labor in every possible fashion. The difficulties suggested by this brief example afford a useful introduction to the study of various types of unemployment.

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[9] W. I. King, "The Relative Volume of Technological Unemployment," *Journal of American Statistical Association, Proceedings*, **28**:39 (1933).

[10] *Statistical Abstract of the United States for 1942* (Washington, 1943), p. 721.

SEASONAL UNEMPLOYMENT

Seasonal unemployment is due to variations in business during the year caused by climatic or other seasonal changes in supply and by changing seasonal demands reflecting custom, habit, and style factors. On the supply side seasonal variations result in a fluctuating flow of materials or seasonal alteration in production techniques. Agriculture, for example, reflects the direct influence of the weather and therefore is peculiarly susceptible to seasonal variation in output and employment. Moreover, the various industries which process agricultural products are likewise subject to seasonal fluctuation in employment due to the availability or non-availability of the raw material upon which their operation depends. On the demand side, seasonal variations are particularly marked in those industries which produce unstandardized consumption goods with relatively elastic demands. The Easter bonnet and the Christmas card are two illustrations of commodities in the demand for which seasonality plays a dominant role. To a lesser extent, seasonal variations attributable to either supply or demand conditions characterize the manufacture of agricultural equipment and the fertilizer, construction, and mining industries.

The seasonal variation in employment in particular industries takes on such a definite pattern that it can be forecast with considerable exactitude. Statistical techniques have been developed to eliminate its influence from data of employment, production, and sales so as to permit analysis of the statistics free from distortion produced by seasonal variation. Within any larger state or area—if industry is diversified—opposite seasonal variations tend to counteract one another, so that net seasonal fluctuations in total employment may be relatively small in consequence.[11] For the country as a whole such a balancing will always occur, but because of the distance involved and the insufficient mobility of labor, a substantial amount of seasonal unemployment may remain. One investigator estimates that the "excess" labor supply attributable to seasonal factors is roughly 3 per cent for manufacturing industry, 15 per cent for construction and 5 per cent for total trade.[12]

In agriculture, the problem of seasonal unemployment is even more acute. The seasonality of the pattern of demand for labor has given rise to a migratory labor force, moving from one area to another, following the cycle of the crops. These people, generally in the very low income brackets,[13] unable to form fixed associations or community ties, present a serious political and sociological problem with which no relief agency has been able to cope.

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[11] See, for example, V. Boothe and S. Arnold, *Seasonality of Employment in Ohio* (Columbus, Ohio State University Bureau of Business Research, 1944), p. 7.

[12] S. Kuznets, *Seasonal Variations in Industry and Trade* (New York, National Bureau of Economic Research, 1933), p. 353.

[13] The earnings of migrant agricultural laborers are very low despite the fact

SECULAR TRENDS IN EMPLOYMENT

In statistical practice, after the effect of seasonal variation has been eliminated from a set of figures, it is customary to remove the influence attributable to "secular trend." Secular trends are long-term trends, as distinguished from cyclical movements. Secular trends in employment within an industry are due to the influence of technological change, population growth, and competition from other industries. Perhaps these trends are also due to some fundamental "law" in the development of an industry. For example, the typical development of an industry might be represented by a logistic curve—that is, production and employment rise first at an increasing rate, then at a decreasing rate, finally reach a maximum as demand becomes stabilized, and eventually decline.

Secular trends are at work not only in particular industries, but also in the economy as a whole, and perhaps also in the world at large. Thus changes in gold supply, wars, disease, and population shift, will all affect employment trends. According to one theory, there are "long waves" in economic development, reflecting such underlying causes and averaging in the neighborhood of 50 years in duration.[14] If the low point of a long wave happens to coincide with the low point of a business cycle, then a very serious and deep depression will result, with a corresponding severe reduction in the volume of employment. Technological innovation is undoubtedly a major factor in determining the rate of economic activity over long periods. Thus, the high employment of the latter part of the nineteenth century was attributed to railroad development; the automobile was held responsible for the employment opportunities of the 1920's.

Let us ignore, for the moment, the influence of these dynamic technological changes, and consider whether long-run unemployment is possible. We have seen in Chapter 11 that the classical theory of marginal productivity equilibrium assumed a tendency to full employment in the long run. Trade unions, it was argued, by setting artificially high wage rates, may produce an equilibrium short of full employment; this unemployment is due to the rigidity of wage rates rather than to any inherent incapacity in the economic system to attain a high level of employment. Recent theoretical discussions, however, have cast some doubt on this explanation and its implication that full employment could be achieved

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that whole families customarily work together in the fields. A study of cotton pickers in Arizona in 1937 revealed average annual earnings of $393. See N. Anderson, *Men on the Move* (Chicago, University of Chicago Press, 1940), p. 287.

[14] N. Kondratrieff, "The Long Waves in Economic Life," *Review of Economic Statistics*, 17:105–115 (1935); A. Hansen, *Fiscal Policy and Business Cycles* (New York, W. W. Norton and Company, 1940), p. 30.

if only the unions could be induced to accept wage reductions. A new theory suggests that an economy may become mature in the sense that investment opportunities become more difficult to find. Emphasis is laid on the fact that we can no longer rely upon an expanding frontier and an expanding population—two factors which, it is contended, were primarily responsible for the great growth of investment in our economy.[15] New invention and intensive development will therefore have to supply the bulk of investment opportunities in the future. A deficiency of investment opportunities, reflecting the maturity of the economy, would materialize regardless of the presence of various rigidities, but unfavorable cost-price relations, union wages, rigidities, and monopolistic restraints add to the difficulty of achieving and maintaining a high level of investment and full employment of the available labor force. Should such a contingency develop, these theorists advocate large-scale government deficit expenditure to fill the gap left by the deficiency in private investment.

Whether there is a tendency toward "maturity" and long-run underemployment in our modern economic society is a debatable question. Every age has had its prophets who have made similar dire prognostications that progress had come to an end; yet every century has witnessed new inventions, new comforts, and higher levels of employment and income. Nevertheless, it is true that large-scale continuing unemployment is a comparatively recent phenomenon in American economic history. From 1897 to 1918, unemployment in the United States averaged only about 10 per cent, whereas from 1919 to 1938 it averaged 15 per cent.[16]

CYCLICAL UNEMPLOYMENT

The outstanding source of unemployment in our modern economy is the recurrent fluctuation in business which has been called the business cycle. While the business cycle has characterized American industrial development, almost since its inception, mass unemployment of a cyclical nature is a comparatively recent problem. Prior to 1929, the number of unemployed in industry did not exceed 5 million per annum.[17] Yet, in 1933, it is estimated that approximately 16 million workers were unemployed.[18] The magnitude of this figure can better be appreciated if it is realized that the effect is the same as if every single person living today in the five largest cities of the country were suddenly to become idle. Indeed, the figure of 16 million understates the tragedy of unemployment, for another 25 million persons were directly or indirectly dependent upon these unemployed.

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[15] A. Hansen, *Fiscal Policy and Business Cycles* (New York, W. W. Norton and Company, 1940), p. 352.

[16] C. Daugherty, *Labor Problems in American Industry*, rev. ed. (New York, Houghton Mifflin Company, 1941), p. 64.

[17] *Economic Almanac for 1946–47* (New York, National Industrial Conference Board, 1946), p. 269.

[18] H. A. Millis and R. E. Montgomery, *Labor's Risks and Social Insurance* (New York, McGraw-Hill Book Company, 1938), p. 19.

The causes of this type of unemployment will be explored in greater detail in Chapter 16. Any satisfactory theory of trade cycles must explain certain definite characteristics of the employment and production pattern which customarily develop in boom and depression. Thus, for example, it is well established that the durable goods producing industries experience much more extreme variations in output and employment than those producing non-durable goods. Employment in durable goods industries declined from 4,090,000 in 1929 to 2,215,000 in 1933; while in non-durable goods industries, the decline was from 4,278,900 to 3,575,000.[19] Whereas the boot and shoe industry in March, 1933, was doing about 88 per cent of its normal business (based on the 1926–29 average), cement mills operated at only 35 per cent and building contractors at about 11 per cent.[20] Thus it appears that the longer the product lasts, the shorter is likely to be the employment of the average worker in the industry producing it. The construction industry, as can be seen from the statistics above, is particularly hard hit during depression, the reason being that investment in homes or business plants is the type of expenditure which can be easily postponed when income falls.[21]

The burden of cyclical unemployment is not spread evenly. Some industries fare reasonably well, while others are subjected to extreme fluctuations in demand. Likewise the sacrifice is not evenly distributed among different types of workers. On the whole, time lost is greatest among the low-paid unskilled workers, the very ones who can least afford it. Minority groups find that discrimination increases with the length of the lines at the employment agencies. During the depression of 1938, a survey in Philadelphia revealed that one out of every two Negro workers was unemployed, while only one out of every four white workers was experiencing complete unemployment.[22] The incidence of unemployment increases with extremes in age—the older men, in the absence of seniority plans, are usually the first to be laid off; and the young men coming out of school find that the door to employment is closed.

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[19] C. Gill, *Wasted Manpower* (New York, W. W. Norton and Company, 1939), p. 37.

[20] C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 113.

[21] Fluctuation of employment in the building industry is further aggravated by the fact that construction has a definite cycle of its own, reflecting factors which are peculiar to that industry. The coincidence of a slump in building with a business depression sends construction unemployment to appalling heights. See C. D. Long, Jr., *Building Cycles and the Theory of Investment* (Princeton, Princeton University Press, 1940).

[22] R. A. Lester, *Economics of Labor* (New York, The Macmillan Company, 1941), p. 378.

Cyclical unemployment exacts a tragic toll in wasted skills, broken homes, warped lives, and ruined health. In money terms, the loss to the economy is staggering. The idleness of the decade of the thirties, for example, was responsible for the loss of an estimated 200 billion dollars of income.[23] The loss in terms of healthy citizens is even more serious. It has been estimated that in the United States in 1932, the health of one-fifth of the children of the nation had been impaired as a direct result of the depression.[24] To this must be added juvenile delinquency, loss of skills, and loss of self-respect—ravages of cyclical unemployment which are not easily erased with the return of prosperity.

TECHNOLOGICAL UNEMPLOYMENT

Technological unemployment is that displacement of labor by machinery and improved methods of production which is attributable to advances of the arts and sciences or to improvements in the technique of management. This definition does not make technological unemployment synonymous with all kinds of displacement of labor by machinery. For example, suppose that a minimum wage is imposed on an industry, doubling the wage rates which it has to pay. Employers would now find it profitable to introduce machines already known and in use in other industries but which hitherto had not been profitable to utilize in this particular industry operating at a low wage rate. Some labor will be displaced by the introduction of the machines, but it would be misleading to attribute this to technological change. The unemployment in this case is attributable to the rise in the price of labor and would have occurred even in a stationary state where technological progress was absent. Thus for the purpose of precise analytical reasoning, it is important to distinguish "substitution" unemployment from "technological" unemployment. In actual practice, however, it is usually impossible to separate the two, so that any figures for technological unemployment are likely to contain a substantial amount of substitution unemployment as well.

The effects of technological unemployment are far flung and diffuse; they are to be traced far beyond the displacement of particular workers by a new machine. When the continuous automatic strip mills were introduced in the steel industry, whole communities were rendered dead and inactive overnight.[25] Tradespeople, professional workers, school teachers—all alike were smitten by the insidious disease which had sapped the lifeblood of what had formerly been a thriving steel town. Technological unemployment is often the forerunner of cataclysmic social changes. The general introduction of the mechanical cotton picker within the next decade is expected to revolutionize southern agriculture and incidentally to produce a mass exodus of Negroes to the northern industrial centers.[26] Commercial application of atomic power would open up vast new possibilities of substituting mechanical means for human labor with unforseeable consequences upon our social and industrial structure.

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[23] S. Harris, *Postwar Economic Problems* (New York, McGraw-Hill Book Company, 1943), p. 15.

[24] *Encyclopaedia of the Social Sciences* (New York, The Macmillan Company, 1935), vol. XV, p. 148.

[25] H. Ruttenberg, "The Big Morgue," *Survey Graphic*, **28**:266–269 (1939); "85,000 Victims of Progress," *New Republic*, **94**:37–38 (1938).

Can labor-saving machinery produce permanent technological unemployment? The answer to this question will depend upon whether we are considering a particular industry or the economy as a whole. In a particular industry, the effect of a labor-saving machine upon employment will depend upon the elasticity of demand for the product, the rate of introduction of the machine, the labor-saving capacity of the machine, and the extent to which the skills of the old workers are still useful under the new method of production. If the demand for the product is highly elastic, it is possible that sales at the lower level of prices made possible by the labor-saving machinery will be sufficiently great to reabsorb all the labor displaced by the new machinery. The extent to which this is accomplished will depend upon how many workers were displaced by the machinery and by the rapidity of introduction of the machinery. Even if a new machine is highly labor-saving, it is possible that a strong union may be able to retard the rate of its introduction so that the rate of displacement is equal to the normal attrition rate in the industry—i.e., the number of men displaced will be equal to the number of workers who would normally leave the industry because of old age, death, sickness, etc. Finally the incidence of the new machine will depend in part upon its effect on the usefulness of skills of the old workers. For example, when the linotype was first introduced, employers tried to use stenographers to run the linotype machines, but they soon discovered that the training and skill of the printer made him a more efficient operator of the machine. Consequently, even non-union shops found it advantageous to develop machine operators from the ranks of hand compositors.[27] By contrast, introduction of the Owens automatic machine and the feed and flow device in the glass bottle industry enabled employers to replace highly skilled blowers with unskilled workmen.[28]

Whether labor-saving machinery can produce permanent technological unemployment in the economy as a whole has long been the subject of controversy in the literature. As we shall see in Chapter 18, the effect of a labor-saving invention is to raise the marginal product of capital relative to labor and thus reduce the relative share of labor in the national income. Some writers have seized on this possibility to argue that a decline in the relative share of labor in the national income will mean a shift of income from those classes which save little to those which save more, with the result that total and effective demands will be diminished, a deflationary influence will be exerted on the consumption goods industries, and the equilibrium level of employment will therefore be reduced.[29] This conclusion, however, rests on an erroneous major premise and is not borne out by historical evidence. While most inventions are labor saving, there has been no long-run trend toward reduced share for labor in the national income.[30] The effect of a labor-saving invention in reducing the relative share of labor in the national income is only temporary. Since the invention also increases the marginal productivity of capital, and therefore the expectation of profits, investment will increase and thereby raise the marginal productivity of labor and the level of employment.

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[26] See Eliot Pratt, "Machine Age in Dixie," *Common Sense*, 14:13–15 (1945).

[27] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 247.

[28] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), pp. 249–251.

EFFECTS OF LABOR-SAVING IMPROVEMENTS

The reaction of employment in the economy as a whole to the introduction of labor-saving improvements in a particular industry or industries can be illustrated by a simplified model. Assume that an improved machine reduces the cost of automobile production by 10 per cent. Assume further that at the former level of output, 10 per cent of the work force could be displaced by the new machine.[31] We may then examine the behavior of employment in four possible situations.

1. Prices of automobiles are reduced 10 per cent and the demand curve has an elasticity of unity.

In this circumstance, the expenditure upon automobiles by the public will remain constant, but the number of automobiles manufactured will increase by 10 per cent. Employment will remain approximately unchanged, the displacement effect being offset by the increase in production. Manufacturers of automobiles will cover their costs, even though they are now selling a larger volume at the same total price, because their costs have been lowered by the technical advance.

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[29] J. Robinson, *Essays in the Theory of Employment* (New York, The Macmillan Company, 1937), p. 135.

[30] For the period 1887 to 1938, it is estimated that the share of national income distributed as employee compensation has risen from somewhat below 60 per cent of aggregate payments in the last quarter of the nineteenth century to well above it in the 1920's and 1930's. See S. Kuznets, *National Income, A Summary of Findings* (New York, National Bureau of Economic Research, 1946), p. 49–50.

[31] In the ordinary case the percentage displacement of labor will differ from the percentage saving in cost. If an invention is highly labor-saving and if labor costs are only a small percentage of total costs, the percentage displacement of labor will usually exceed the percentage reduction in total costs. The assumption made in the text that percentages correspond is adopted merely to achieve greater symmetry in the exposition. Such correspondence would be possible where the invention, though labor saving, also reduces material (and other) costs, so that the percentage reduction in total costs roughly parallels the percentage saving in labor.

2. Prices of automobiles are reduced 10 per cent and the demand curve has an elasticity greater than unity.

In this case, expenditures upon automobiles will increase, which means that output will increase more than proportionately to the reduction in price. Hence new employment opportunities will open up in the automobile industry. Since consumers are spending more of their total incomes on automobiles, they will have less to spend on other products. However, the increased production of automobiles will induce manufacturers to increase orders for many types of raw materials and accessory products. Therefore the reduction in employment in other areas probably will be less than the increase in employment in the automobile industry, so that total employment will increase. Since some of the expansion in the automobile industry will be accomplished through increased borrowing, aggregate demand will rise along with real output, and consumers may find that they still are able to buy their accustomed volume of other products, despite their increased expenditure upon automobiles.

3. Prices of automobiles are reduced 10 per cent and the demand curve has an elasticity less than unity.

This circumstance is the one which is most difficult for labor. Since consumers will now spend a smaller total amount on automobiles, there will be some displacement of labor in this industry. Assuming no compensatory governmental payments to the displaced workers, their income will be cut off so that a deflationary effect will be produced on total demand. On the other hand, by reason of the decline in auto prices, consumers will have disposable income with which they can purchase more of other products. Output and employment will therefore tend to increase in other industries. Thus, it is conceivable that all displaced labor from the automobile industry will be absorbed in other parts of the economy. This possibility assumes: (a) that consumers generally increase their purchases of other commodities by the full amount of their reduced expenditures on automobiles; (b) that labor displaced in the auto industry is able and willing to seek employment in other areas.

Each of these assumptions is subject to obvious objections. Consumers may prefer to hoard in a sock the money saved by reason of the automobile price reductions. Even if they put the funds in a savings bank to be invested, there will be some lag during which a deflationary influence will be exercised upon the economy.

Equally suspect is assumption (b) that labor is mobile. Adam Smith once said that man is, of all sorts of luggage, the most difficult to transport. Workers are understandably reluctant to leave their homes, communities, and circle of friends to seek new jobs elsewhere when machines deprive them of their means of livelihood. Thus to a certain extent, some technological unemployment is voluntary—in the sense that it might be eliminated if workers were willing to move to other areas. One may well ask, however, why workers should bear this cost of change when the technological improvement benefits the whole community. Moreover, in many cases, the effect of the technological innovation is to render it difficult for the displaced worker to find work elsewhere. This would be the case where invention eliminates the usefulness of a highly specialized skill, with the result that a technician, formerly highly paid, can be reabsorbed in industry only as a common laborer. Mobility of labor requires a willingness not only to move to other areas, but also to accept work at a lower wage rate.

4. Prices of automobiles are not reduced at all and profits rise 10 per cent.

In this case, again, the first effect is that workers displaced in the automobile industry are deprived of their incomes. What they cannot spend may be spent by the entrepreneurs whose profits are increased. At best, employment in other industries will remain unchanged. (Note that since in this case there is no reduction in consumer expenditure on automobiles, there is no tendency to increased output and employment in other industries as in example 3.) If there is hoarding by entrepreneurs out of profits, unemployment attributable to this source will be added to the technological unemployment in the automobile industry. The additional unemployment so produced is attributable to the holding of idle balances and should be distinguished from technological unemployment *per se*. Entrepreneurs will not ordinarily prefer to hold idle balances rather than invest them at a profit unless something has happened to diminish profit expectations. The normal result of technological progress is to raise, not to lower, entrepreneurial expectations of profit. If the augmented margin of profit produced by the labor-saving machine induces additional investment, the new employment associated therewith will tend to offset the technological unemployment produced by the introduction of the machinery.

In actual practice, prices will rarely fall by the full amount of the reduction in cost effected by a technological innovation; nor are prices maintained at their former level without any downward adjustment. However, the fact that real wages in the United States doubled from 1840 to 1910[32]—a period characterized by trusts and monopolies on the one hand and a relatively unorganized labor market on the other—indicates that the recipients of profits have not been the only ones to benefit from technological change. Nevertheless it is desirable that at least *temporarily* profits should be increased by technological change. If employers were compelled to lower prices or to increase wages by the full amount of the saving in cost produced by a technological change, there would be no inducement afforded them to make further investments in machinery of increased efficiency.

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[32] A. Hansen, "Factors Affecting the Trend in Real Wages," *American Economic Review*, **15**:32 (1925).

The full effect of labor-saving machinery upon employment cannot be understood unless such improvements are viewed as part of a dynamic technological environment which is essential to new investment. Production of labor-saving machinery is itself a major form of new investment, and it is new investment which is the driving force in our economy, creating new employment opportunities and raising the plane of living. Thus any attempt to reduce displacement of labor by restricting the tempo of technological change is self-defeating. Such a plan would have to retard the introduction of labor-saving machinery; the more successful the plan were in achieving this objective, the greater would be the diminution in the volume of new investment and in the job opportunities associated with it.

CASUAL UNEMPLOYMENT

Casual unemployment is attributable to more or less haphazard fluctuations in the amount of work to be done in certain industries or trades. The classical example of casual unemployment has been the work of the longshoremen who load and unload ocean freighters.[33] Ship arrivals are irregularly spaced, yet it is necessary to have a full crew available to unload when a ship comes into port. Hence a large number of men are compelled to "hang around" on off days, waiting for work to come in. The opportunities for favoritism by foremen which this situation afforded led to the introduction of the union hiring hall for longshoremen and other occupations facing similar problems.

Casual unemployment, as the term is usually used, refers to the temporary part-time unemployment which is usually a reflection of conditions peculiar to a given industry. Union organization, however, may produce a form of "wage distortion unemployment"[34] which bears a very close resemblance to casual unemployment.

A strong union may force up wage rates in a particular industry to so high a level that sales of the product are inhibited and unemployment is produced. Nevertheless, workers attracted by the high hourly wage rate may be unwilling to leave the industry, with the result that a large body of workers may be able to work only part of the year. If the wages are sufficiently high, a worker will remain attached to an occupation even though he is able to pick up only 150 to 175 days of work a year rather than shift to another occupation or industry where at a lower wage rate he might secure 275 days' work a year.[35] Examples of this type of unemployment were found in the needle trades before the war.

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[33] A. Meyers, *Elements of Modern Economics* (New York, Prentice-Hall, 1938), p. 321.

[34] The term is used by Professor Sumner H. Slichter in *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), p. 76.

Frictional Unemployment

Frictional unemployment is attributable to time lost in changing jobs, rather than to a lack of job opportunities. Frictional unemployment, defined broadly enough, could encompass almost all types of unemployment, since the cyclical unemployed, the seasonal worker, and the victim of declining demand in a particular industry must all take time to find new jobs. Frictional unemployment, however, can be distinguished as that type which would not be significantly reduced by a general increase in demand. Even during the war period, when unemployment of other types was practically non-existent, frictional unemployment persisted; the shifting of labor from areas of relative surplus to areas of relative scarcity cannot be accomplished without a lapse of time. The line between casual unemployment and frictional unemployment is likewise not very clear, although the former is generally applied to workers who are unemployed part of the time, but have not changed their occupation or place of work, whereas frictional unemployment commonly involves a change in one or both of these conditions.

Frictional unemployment is a reflection of freedom of movement in the labor market coupled with some degree of immobility. John Doe quits his job to go out to work in Detroit, but it will be several weeks at the earliest before he can move the long distance involved and obtain a position in his new location. Such friction exists even with regard to changes of jobs within a given city, or state. Public employment exchanges tend to reduce time lost by giving better publicity to job openings. Unions may also perform the same function. In the building industry, for example, where jobs are intermittent, the existence of a strong union ready to supply skilled workers wherever and whenever needed has tended to reduce the amount of time which would otherwise be lost in shifting from one job to another. The union serves as a central clearinghouse for jobs and probably operates more efficiently in this respect than if workers and employers had to rely on employment exchanges.

The volume of frictional unemployment in a large country such as the United States is substantial. It has been estimated that if every employed worker changed his job once a year and averaged only one week in the process of transfer, annual unemployment from this source would average about 2 per cent of the labor force or about 1,200,000 men.[36] The actual volume of frictional unemployment has been estimated by the Bureau of Labor Statistics to average about 2 to 2½ million persons annually.[37] Unemployment smaller than this amount is regarded as "overemployment."

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[35] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), p. 76.

Summary

The high level of employment which prevailed during World War II and in the immediate postwar years tended to obscure the fact that this country never adequately solved the unemployment problem which had plagued it in the thirties. In the 9 years preceding the outbreak of World War II, an average of 17 per cent of the total labor force was unemployed.[38] As late as 1939, close to 9 million workers were unable to find jobs in industry.[39] Had it not been for large government expenditures for armaments and for rehabilitation of Europe under the Marshall Plan, it is possible that significant unemployment would have reappeared by 1948.

The problem of unemployment therefore is still with us, even though abnormal government expenditures have temporarily thrust it in the background. In this situation analysis of the effect of wage policies upon employment becomes of especial interest. Do wage increases tend to produce unemployment? What wage policy would be most effective to achieve recovery in business and employment if we should have another depression? These and related problems concerning the volume of employment will be the subject of our consideration in the following chapters.

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[36] *Monthly Labor Review*, **64**:4 (1947).

[37] *Monthly Labor Review*, **64**:1 (1947).

[38] Statistics derived from *The Economic Almanac for 1946–47* (New York, National Industrial Conference Board, 1946), p. 268.

[39] *The Economic Almanac for 1946–47* (New York, National Industrial Conference Board, 1946), p. 268.

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Wage Changes and Employment

Assume that a general wage increase occurs throughout the nation. What will be its effect upon employment? There are, in brief, three approaches to the problem.

The first is the traditional approach of value theory.[1] One observes the reaction of the individual firm to the arbitrary increase in costs; one then assumes that these consequences are additive so that the economy as a whole would undergo, on a larger scale, the same process of adjustment as that which occurs in the individual firm.

The second approach represents a more recent trend in economic thinking.[2] Problems involving wage-price-employment relationships are studied through examination of the basic forces which control the level of saving, investment, and aggregate output. While the first approach assumes that the demand curve for total output is independent of the supply curve (cost curve), the second approach departs from the analogy of the individual firm, and inquires into the possibility that general changes in the volume of payments to cost factors will affect total demand.

The third approach combines these two techniques. On the one hand, it recognizes that broad wage movements may affect the over-all rate of savings and investment; it stresses that while these variables can be ignored in individual firm analysis, they are of extreme importance in determining the reaction of employment in the economy as a whole. On the other hand, this approach recognizes that while there are such broad movements, wage adjustments are never truly general in the sense that all firms are affected simultaneously by uniform increases in labor costs. Non-union firms, for example, may be faced by problems of adjustment quite different from those of union firms. This approach attempts, therefore, to temper the general with the particular, by taking account of the heterogeneity of conditions in individual firms in addition to over-all changes in savings and investment, in appraising the effect of the wage increase.

In the following pages, we shall examine the relationship of wage rates and employment from these three points of view. Because the growing strength of union organization has afforded new significance to the problem of a rising money wage level, the presentation has been phrased, on the whole, in terms of increases, rather than decreases, in wage rates. The principles derived, however, and the mode of analysis discussed, are applicable as well to wage reductions.

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[1] Representative of this technique is J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932).

[2] Progenitor of this technique was J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936).

Before these three approaches to the problem of wage-employment relationships are examined, the reader is reminded that there is no automatic or direct relation between wage changes and employment changes in a dynamic economy. For example, a rise in wage rates may not even raise labor costs if the wage increase occurs at the same time as technological progress raises the productivity of labor. Furthermore, as has been pointed out in detail in Chapter 12, union rules and regulations may to a considerable extent insulate employment in organized firms from the effects of changing wage rates. As a consequence, in the flux of the actual labor market, wage changes make their influence felt upon the volume of employment only in the form of a tendency—and a tendency which may take many years to work itself out.

In this chapter, however, for the purpose of sharpening the difference in conclusions of the three approaches to the problem of wage-employment relationships, we shall assume that a closer and more predictable relation exists between wage changes and employment than is true of the actual labor market. For example, we shall assume, for the sake of argument, that all firms are paying workers their exact marginal revenue products. We shall also abstract technological change so that the effect of reductions in unit labor cost attributable to increasing productivity can be ignored. Under these restrictive assumptions, a rise in wage rates in the individual firm would induce a curtailment of output and employment. But would this result necessarily follow if wage rates were raised simultaneously throughout the economy? Analysis of such general wage adjustments under the assumptions enumerated will reveal that the conclusions of marginal productivity theory derived from study of an individual firm cannot be applied without qualification to general wage changes extending over the whole economy.

The assumptions made will clarify the important difference between the effect of a wage change in a single firm and of a general wage adjustment. The conclusions of the following discussion must, however, be rephrased in terms of general tendencies in order to have valid application to the actual labor market.

Individual Firm Analysis

SHORT-RUN EQUILIBRIUM

Assume that without any change in the demand for labor, a general increase occurs in the level of wage rates throughout the economy, either because of government decree or union action. How will individual firms react to this change in labor cost? Orthodox economics assumes that the consequences of the wage adjustment are additive so that the economy as a whole will undergo on a broader scale the same process of adjustment as occurs in the individual firm. And in the individual firm faced by a rise in wage rates, orthodox economics maintains that, with few exceptions,[3] unemployment will result. This conclusion is derived from application of the marginal productivity theory.

The marginal productivity theory assumes that the demand curve for labor approximates the marginal productivity curve of labor and can be represented by a negatively inclined arc. It will assume this form because the marginal productivity of labor varies inversely with the amount of labor employed. Therefore, if each entrepreneur acts rationally, he will add labor only up to the point where the last additional laborer adds just enough revenue to compensate for the wage he receives. The lower the wage, the larger will be the size of the work force employed, since the employer can afford to keep on the payroll workers whose marginal contribution to the firm's revenues is comparatively small. When wage costs rise, however, he will be compelled to lay off these men in order to achieve a new equilibrium at which the marginal productivity of the least valuable man employed will be sufficiently great to equal the new higher wage level. Whether the employer is a monopolistic or a pure competitor, (i.e., whether he is faced by a sloping or a horizontal product demand curve), when wage rates rise, he will find that labor costs more than it is contributing to his revenues, and he will therefore be induced to economize in its use.

In the case of the individual firm, a given rise in wage costs will produce a smaller volume of unemployment, the steeper the slope of the product demand curve. When a firm has a demand curve which is perfectly inelastic over the relevant stretch, a wage increase may produce no restriction of output and employment at all, since the entire effect of the rise in costs may be passed on to the consumer in the form of higher prices. By contrast, in a purely competitive firm, the first impact of the higher costs will be reflected entirely in a curtailment of output and employment with no change in price. Finally, in a firm faced by a sloping demand curve, part of the rise in costs will be diverted into a rise in prices. This does not mean, however, that a rise in costs in pure competition will not affect prices. Prices will rise as a result of the increase in wage rates, but the rise in market price will come about not through price adjustments initiated by individual firms, but rather through the reduction in individual outputs.

Even in the short run, however, the amount of displacement of labor will be greater than is indicated by the slope of the demand curve for the product. A perfectly inelastic demand curve in the market for the product does not necessarily signify that the demand curve for labor will be equally inelastic. Even though the output of the firm remains unchanged, the employer may still be able to substitute cheaper factors for the more expensive labor. For example, in some industries, employers have sought to economize in the use of labor by resort to the "stretchout," i.e., a worker who had formerly tended only one machine would be required to operate two, at the same rate of pay. Through this device, a smaller labor force can be used more intensively. Some workers can be displaced with little or no change in output.

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[3] The exceptions are considered below, pp. 372–374.

In the long run, of course, possibilities for substitution are much more extensive. When capital becomes fluid, it may be reinvested in machinery which is more labor saving; therefore, the full effect of a current wage increase upon employment in the individual firm may not really be felt for many years, until it becomes necessary for the firm to replace machinery.

The possibility of substituting capital, or other factors, for labor is frequently overlooked by economists in dealing with "freak" situations in which wage increases supposedly will have no effect upon employment. Some of these situations have already been examined in the chapter on exploitation. A common example is that of the firm whose product demand curve is characterized by "steps" due to customary "price lines" in the marketing of retail goods. Thus, the demand curve for dresses, as seen by the manufacturer or retailer, might simply connect points at $8.95, $7.95, and $6.95, with no price-quantity relationship indicated in the intervals. If the marginal cost curve happens to cross the marginal revenue curve in one of these discontinuous intervals, then a rise in the cost curve will produce no change in output.

Another circumstance which may produce a discontinuity in the demand curve is the presence of a few sellers in an industry. Such a situation is known as "oligopoly," and the demand curve of an oligopolist will frequently be characterized by a "kink" at the prevailing price.[4] Since there are only a few sellers in the industry, each will consider the effect of his price policies upon the price policies of his rivals. Above the prevailing price, the oligopolist's demand curve will approach the horizontal. This is simply the geometric expression of the oligopolist's expectation that a price increase by him will result in a very great loss of sales because competitors may not follow suit in raising prices. Below the prevailing price, the demand curve will approach the vertical, indicating that a price reduction by the one firm will result in a sharp loss of revenue, since it may induce retaliatory price cuts by competitors, and thus inaugurate a costly price war. If the marginal cost curve cuts the marginal revenue curve in a discontinuous section produced by this kink in the demand curve, a rise in wage costs will not produce any change in output. But the fact that, in such situations, output or price may not vary in responses to a wage increase does not necessarily mean that the wage adjustment will be absorbed without any displacement of labor. Since labor has become more expensive, management will undoubtedly attempt to economize in its use even though output remains unchanged.

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[4] P. M. Sweezy, "Demand Under Conditions of Oligopoly," *Journal of Political Economy*, **47**:569 (1939).

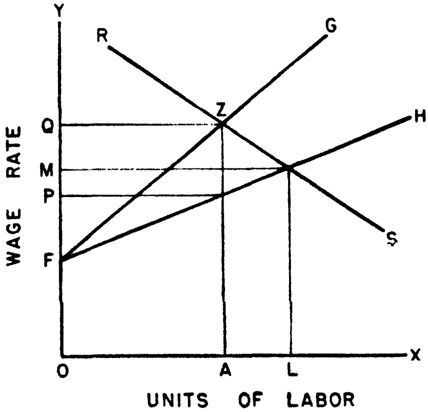

FIG. 12. Effect of uniform minimum wage.

Another such unusual situation which has caught the fancy of economists is that in which an employer is faced by a rising supply curve of labor, e.g., skilled craftsmen. The employer will hire that amount of labor at which the marginal cost of labor is equated to its marginal revenue productivity. If, under these circumstances, a union should organize a plant, it is *possible* that the union will be able to raise the wage rate without producing any displacement of labor. (See Fig. 12.)

In Fig. 12, units of labor hired by the employer are measured along the X-axis, while the wage rate is indicated along the Y-axis. Assume that RS represents the marginal revenue productivity curve of labor, FG the marginal cost curve of labor to the employer, and FH the average cost curve of labor. This situation may exist where the employer is in a monopsonistic position. For example, he may be the one big buyer of labor in the area, but, because he is utilizing a limited pool of relatively scarce skills, he finds that if he wishes to hire more workers he can do so only at a higher wage, and this wage must then be paid to all his other workers of similar skills. Under such conditions, the employer will hire OA units of labor, paying the wage OP equal to the average cost of labor. If now a union enters, and sets a uniform minimum wage equal to OQ, the marginal revenue productivity for the number of men employed in the exploited position, there will be no incentive to hire a different number of workers, while the employees will gain the difference in higher wages. Thus, the employer, because of union intervention, has been deprived of a large volume of monopsony profits. If he has been a marginal producer, the existence of monopsony profits may have been necessary to his survival, and hence the loss of such profits due to an increase in wages could produce the withdrawal of the firm from the industry.

If the union is primarily interested in maximizing employment, the maximum increase in employment will be achieved by setting a uniform minimum wage equal to OM. Employment will then increase by the amount AL, though, for reasons indicated above, this increase may be only temporary, since the producer may be induced to withdraw from the industry.

LONG-RUN EQUILIBRIUM

The extent to which wage increases will produce unemployment in the individual firm in the long run can be summarized in the form of four laws:[5]

If wages are raised, the resulting unemployment will be smaller in amount:

1. The less elastic the demand for the product.
2. The smaller the substitutability of labor in the process of production.
3. The smaller the proportion which labor costs form of total costs.
4. The less elastic the supply schedules of the complementary factors.[6]

These "laws" are applicable in both the short run and the long run, but it is only in the long run that factors 2 and 4 come into full operation. In essence, these two tendencies reduce to the degree of fluidity of capital. It is machinery that is ordinarily the complement of labor, as well as its most important substitute. In the long run, capital not only can be substituted for labor (factor 2), but also it may be removed to other industries, or the supply may be altered (factor 4).

At any moment of time, employers, if they have acted rationally, will have pushed their use of labor and capital to the point where they have reached a margin of indifference, i.e., it is immaterial to them whether they utilize a unit of capital or a unit of labor at the margin. From this it follows that if the price of labor rises, employers will find two actions profitable: (a) to substitute capital for labor by introducing labor-saving machinery; (b) to shift from less capitalistic to more capitalistic industries, i.e., to industries where the ratio of labor to capital is smaller. Because of these possibilities, the long-run elasticity of demand for labor will be substantially greater than the short-run elasticity. As a consequence, the full effect of wage increases upon the volume of employment can be observed only in the long run.

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[5] These are adapted from Marshall's famous Laws of Derived Demand. See A. Marshall, *Principles of Economics* (London, Macmillan and Company, 1930), p. 384.

[6] The fourth condition is subject to qualification when the elasticity of substitution is equal to the elasticity of demand for the product. See J. Robinson, *Economics of Imperfect Competition* (London, Macmillan and Company, 1933), pp. 261–262.

That increases in the price of labor will induce substitution of capital for the more expensive factor is implicit in the marginal productivity doctrine. In this way, wage increases may become a significant stimulus in a dynamic economy. The circumstances under which this is most likely to occur will be examined in considerable detail in Chapter 19. Suffice it to say at this point that wage increases are a two-bladed sword. On the one hand, they motivate management to substitute machinery in order to reduce labor costs. Since purchase of labor-saving machinery is a form of investment, moderate wage pressure may perform a useful purpose in providing an incentive to management to expand expenditures upon machinery and thus to increase the volume of employment in the machine-making industries and in the economy generally. If, however, wage rates rise so rapidly as to diminish substantially the prospect of profit, even the process of substitution may be discouraged. This situation would not mean that labor dislocation would be minimized; for the deterrent afforded to investment by large arbitrary wage increases will have a depressing effect upon employment and output generally, so that the ultimate repercussion upon employment may be more unfavorable than if substitution had been stimulated.

Shifts from Less Capitalistic to More Capitalistic Industries

Other things being equal, a rise in labor costs will reduce profits more in industries using a large proportion of labor than in industries using a relatively small proportion. As a consequence, as capital wears out in the less capitalistic industries, some entrepreneurs will decide that it would be more profitable not to replace it, but rather to shift their investment to more capitalistic industries where the margin of profit is greater.

It has been suggested that a rise in wage rates may increase monopolistic tendencies in the economy because it encourages a shift of investment funds from the little mechanized plants which are generally highly competitive to the highly mechanized plants which are usually larger and semimonopolistic.[7] Any transfer of funds to a more capitalistic industry may result in permanent unemployment because of the high degree of mechanization of the latter industry. But should that industry be monopolistic in addition, the permanent unemployment would be even greater, since output restriction is probably practiced more in monopolistic industries.

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[7] C. Daugherty in "Round Table on Wage Policies," *American Economic Review*, **28**:155–156 (1938 supplement).

Underlying the entire conception of shifts to more capitalistic industries as a result of a wage increase, are two assumptions which are seldom mentioned. The first is that the interest rate does not rise; for if this should happen, to that extent the shift is made less profitable; and if the interest rate rises sufficiently, the shift may not occur at all.[8] Entrepreneurs must consider the interest rate in determining the cost and relative advantage of long-term investment. The longer the useful life of the machinery involved, the more important the interest rate becomes in determining the profitability of its purchase. For short-lived machinery on the other hand, the price of the machine is more important than the interest rate since funds will not be tied up for so long a period in making this type of equipment purchase. While a rise in wage rates will make it more profitable to invest in labor-saving machinery, a concomitant rise in interest costs will make entrepreneurs reluctant to tie up funds in such long-term investments.

The second assumption is that the elasticity of demand for labor is not less than unity. How, it may be asked, is this related to the problem of shifts between industries? The elasticity of demand for labor describes the proportionate change in the quantity of labor employed which will accompany a given proportionate change in the wage of labor. If the elasticity of demand for labor is less than unity, an increase in the wage of labor will not bring about a proportionate reduction in the quantity of labor employed. As a result, the total sum expended for labor by the individual firm will increase. If the elasticity of demand for labor in most firms is inelastic (less than unity), a rise in the wage rates may set forces into motion which will make a shift to more capitalistic industries unprofitable.

In the first place, a rise in the size of the wage bill will increase the needs of employers for cash to meet wage disbursements. The consequent increased drain of cash from the banks may lead them to restrict borrowing and therefore produce a rise in the rate of interest. A rise in interest rates, as we have seen, decreases the desirability of a shift.

In the second place, the increased volume of funds in the hands of wage earners may be reflected in an increase in the demand for consumers goods. There is some evidence to indicate that wages constitute a much larger proportion of manufacturing costs in consumers goods industries than they do in capital goods industries.[9] For example, the ratio of labor costs to capital costs is much greater in the manufacture of men's clothing than in the steel industry. The result is that in those very industries in which wage costs have risen most (because of the high proportion of labor costs to total costs), demand and prices will also be rising; whereas in the capital goods industries, costs will have risen less, but at least until the derived demand from the consumers goods industries filters through, profit expectations may not be as high as in the non-durable consumers goods industries.

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[8] The possibility of a rise in the interest rate will be considered in detail in a subsequent section of this chapter.

[9] See C. Roos, "Economic Theory of the Shorter Work Week," *Econometrica*, **3**:31 (1935).

A general rule can be formulated which will explain entrepreneurial reactions in all possible situations of the elasticity of demand for labor:

If wage rates are increased, other things remaining equal (i.e., interest rate, etc.), a shift to more capitalistic industries will occur if the elasticity of demand for labor is equal to or more than unity. If the elasticity of demand for labor is less than unity, the shift to more capitalistic industries will occur only if the rise in prices of the product of consumer goods industries is insufficient to offset the rise in labor costs in those industries.

This rule is of importance to the economist because it indicates that, under conditions of inelastic demand for labor, there will be not only less short-run unemployment (by definition), but also less long-run unemployment because of the check the higher wage bill affords to the tendency of employers to shift to more capitalistic industries.

Wage Changes and Employment in the Economy

Orthodox value theory, as we have seen in the preceding section, offers a very pessimistic conclusion as to the ultimate outcome of a rise in wage rates. It reduces to the proposition that an increase in the money wage of labor will curtail the volume of employment by an amount sufficient to raise the marginal productivity of labor to a level of equivalence with the new higher rate of wages. This conclusion rests on the tacit assumption that aggregate demand remains unchanged. This assumption may be perfectly legitimate when the wage-employment adjustment is viewed within the confines of the individual firm, but proponents of the second approach (the "aggregative" theory) criticize it as reducing the argument to an *ignoratio elenchi* when applied to the economy as a whole.[10]

THE AGGREGATIVE VIEW OF WAGE CHANGES

The problem, as viewed by the "aggregative" school of thought, is briefly this: while no one would wish to deny that an increase in wage rates accompanied by the same aggregative effective demand as before will be associated with a decrease in employment, the precise question at issue is whether the increase in money wages will or will not be accompanied by the same effective demand as before.[11] In order to determine whether effective demand will be altered or will remain constant, we must look to the effect of a wage increase upon the basic determinants of the level of investment and output.

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[10] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 259.

The argument runs as follows: a stable economy may be defined as one in which the level of income and employment is maintained from period to period, that is, where neither tends to contract or expand. In order to maintain the flow of income through the productive process, the amount of expenditure upon new investment must be equal to the amount which people are prepared to save out of their incomes.

Suppose that national income is 100 billion dollars, and that 80 billion of it is derived from the production of consumers goods, while 20 billion is derived from production of capital goods. Assume further that consumers are prepared to spend annually 80 billion of their 100 billion income on consumers goods and to save the remainder. Then, in order to maintain national income at 100 billion in succeeding periods, entrepreneurs must be prepared to expend 20 billion dollars annually upon new investment. If a change in interest rates or in profit expectations makes new investment more (or less) attractive so that the amount of capital expenditure diverges from the amount which people are prepared to save, there will be a tendency for income to expand (or contract). For example, an increase in investment expenditure by business without any change in the amount income recipients are intending to save will increase aggregate demand, employment, and income.

Similarly, with a stable volume of investment expenditure of 20 billion dollars annually, a change in the propensity of the community to consume, reflected in an alteration in the proportion of income which people are prepared to save, will induce an expansion or contraction in total income. The propensity to consume is a concept which plays a major role in the methodology of the aggregate school. The propensity to consume is the relationship between income and expenditure on consumption out of income, while the marginal propensity to consume may be defined as the relationship between an increment of income and expenditure upon consumption out of this increment. If the community were to spend every extra dollar of income it receives, the marginal propensity to consume would be equal to unity. On the other hand, if part of the additional increment were saved and part spent, the marginal propensity to consume would be less than one. The marginal propensity to consume is normally less than unity; therefore, as real incomes increase, people will expand their consumption, but not by as much as the increase in income. Conversely, when incomes decrease, the community will decrease its expenditures upon consumption, but not in proportion to the reduction in income.

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[11] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 259.

Thus, either a change in investment habits by businessmen or a change in savings habits by income recipients can set in motion a process of contraction or expansion in the economic system. If wage changes are to produce fluctuations in income and employment, they must act through two major variables: the inducement to invest and the marginal propensity to consume. If these two factors remain unaltered, wage changes will simply be reflected in corresponding price changes without alteration in the level of national income.

The Effect of a General Wage Increase

Assume a general wage increase of 10 per cent occurs during a period in which the psychological repercussions of the wage change upon the inducement to invest and the propensity to consume are small enough to be ignored. Assume further that the banking system stands ready to expand the quantity of money so that the increase in wages has no tendency to raise the rate of interest. Under these conditions, will a rise in wage rates produce a contraction in employment or income? This theory says, "No!"

When wage rates rise, it is true that producers may at first curtail output and employment because of the higher level of costs. Real output, and therefore real income, will be reduced, but only temporarily. Since the marginal propensity to consume is less than unity, people will not reduce their consumption by the full amount of the decrement in output. They will try to save a smaller amount out of their reduced real incomes than they had before the wage increase. For example, they would now tend to save less than the 20 billion that they had saved before the reduction in employment and income. If, however, investment remains at the 20 billion figure, there will be an expansion of effective demand from this source resulting in an increase in employment and income. This will go on until the previous level of output is restored.

At any volume of output less than the original one, the community will be prepared to invest more than it saves. If this were not so, the original position would not have been one of equilibrium. Therefore, as long as investment per period of time remains unchanged, income will always be restored to its original level. It is fundamentally because of the propensity of the public to save less at a lower level of income than at a higher level that an increase in wage rates, according to this theory, can be absorbed by industry with no change in employment. Costs and prices will, of course, remain at the higher level.

Effect of a General Wage Reduction

Conversely, when money wage rates fall, *ceteris paribus*, there will be an initial increase in output and employment. Entrepreneurs will expand production of goods in the expectation of increased revenues, but their expectations are bound to be disappointed unless the marginal propensity to consume is equal to unity. For if the marginal propensity to consume is less than unity, consumers will wish to save part of the increase in real income. Therefore producers' receipts will be less than their costs of producing the increased output. Production will fall back until at the reduced output the amount which the community wishes to save will be equal to the volume of new investment.

Of course, the reduction in costs may very well induce businessmen to increase investment, in which case there will be a permanent expansion in employment. But investment will increase only if there is a change in the relationship between the rate of interest and the anticipated rate of profit, and such a change cannot occur because, by hypothesis for the purpose of this example, these variables have been assumed to remain constant.

Appraisal of Aggregative Approach

A major contribution of the aggregative school is its demonstration that wage changes will not alter employment as long as the rate of interest, the anticipated rate of profit, and the marginal propensity to consume remain unchanged. Further it has indicated to business cycle theorists that wage reductions *per se* afford no panacea for the problem of stimulating employment in depression. Whether or not wage adjustments are to have a favorable effect is dependent upon the repercussions of these adjustments on savings and investment.

Is the theory a plausible one? It can be argued that the theory is logically inconsistent in that its very *modus operandi* makes it unlikely that the crucial variables—the anticipated rate of profit in particular—can remain constant. We have seen that the theory, while admitting some initial curtailment of output as a result of general wage increases, posits that such reductions in output and employment will be only temporary. However, investment outlets are, in part, a function of the level of output, and the reduction in output accompanied by higher costs may restrict the number of profitable investment opportunities. Consequently new investment may diminish instead of remaining constant, as these theorists assume. Should this occur, there would be no tendency toward reëstablishment of an equilibrium with undiminished employment at a higher level of prices.

The conclusion that prices will rise by an amount sufficient to compensate producers fully for the higher level of costs is also subject to criticism. It has been pointed out, for example, that prices can rise by the required amount only if there is an increase in the supply of money or in the willingness to spend money.[12] Higher labor costs may produce some increase in spending by business concerns. There may at least be increased expenditure on direct labor. However, the increased burden of labor costs may result in a postponement of expansion plans, and this would have a deflationary effect upon the economy. If increased spending by wage earners with higher money incomes were offset by decreased business spending because of postponement of investment projects, effective demand would not expand sufficiently, and the rise in the price level, attributable to augmented effective demand, would not fully compensate for the increase in wage costs. Companies would therefore sustain losses, and would curtail output and employment in order to bring revenues and costs into realignment.

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[12] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), pp. 78–79.

The aggregative school has furnished the economist with valuable analytical tools which have a wide range of application. The analysis of wage adjustments advanced by these theorists has given explicit expression to assumptions which in orthodox theory were left obscure and ambiguous. For example, orthodox theorists, tacitly assuming aggregate demand will remain constant, declare that wage increases will result in a contraction of employment. On the other hand, according to the aggregative view, aggregate demand is capable of expansion, and therefore general wage increases may simply raise prices without affecting employment. Orthodox theory assumes an inelastic supply of money, whereas aggregative theory takes into consideration the elasticity of the modern credit mechanism.

Orthodox theory postulates that wage reductions will induce increased employment. It arrives at this conclusion by assuming that aggregate demand will remain constant despite the initial decline in wage income attributable to the wage reduction. The aggregate school has shown that such reasoning is based upon the assumption that the wage reduction will stimulate investment, so that increased business expenditures will fill the gap in aggregate demand left by decreased wage earner income. The expectation of increased investment in turn rests upon the assumption that interest rates fall or anticipated profits rise as a result of the wage change.

Once all these assumptions are fully spelled out, the two approaches to the problem of wage adjustments arrive at the same answer. The difference in emphasis is, however, still important. The aggregative theorists, by focusing attention upon the behavior of savings and investment, and by emphasizing that wage reductions react upon employment largely through their influence upon the interest rate, have sought to control these variables directly, through fiscal policy, rather than through wage policy. The orthodox theorists, on the other hand, while admitting that wage changes may have to operate through other variables, still cling to the notion that wage policy is an effective method of bringing about desired changes in the level of employment.

Union Wage Increases and Employment

Neither the orthodox theory nor the aggregative theory is, by itself, fully adequate to deal with the problem of union wage changes. Union wage adjustments lie in a twilight zone between the general and the particular; union wage movements are sufficiently broad in scope so that the possible repercussions of the wage increases upon the interest rate and other generalized variables cannot be ignored. Yet they are never of the very general nature examined in the preceding section. Moreover, union wage adjustments take place in a heterogeneous economy composed in part of unionized employers faced with union wage pressure, and in part of non-union employers whose problems and reactions may be quite different. In this section we shall examine wage increases with a view to determining whether the results of union-induced wage increases upon employment differ in any important respect from wage increases confined to a particular firm, or from wage increases which are general and uniform throughout the economy.

THE REACTION OF THE INTEREST RATE

The interest rate is often the crucial factor in investment decisions, for it is the price which entrepreneurs must pay for capital funds. Other things being equal, a rise in interest rates decreases the attractiveness of capital outlays, while, conversely, a reduction in money rates stimulates investment.

The reaction of the money market to continuing union wage pressure will depend upon numerous factors. Many of these are intangible and immeasurable—for example, the personalities of the dominant labor leaders, the relationship between labor and government, the supposed (not the actual) influence of Communists in the labor movement, and so on. On the whole, however, the most likely reaction to such pressure is a rise in the rate of interest. In the first place, the immediate effect of wage increases is a rise in the wage bill, for employers must have time to revise their production commitments. In the interim, therefore, the demand for cash for wage and salary disbursements will rise. Secondly, while wage demands alone may not affect liquidity preference,[13] it is quite possible and indeed probable that *union* wage demands—particularly if they are pressed in a militant fashion and occur together with an unfavorable combination of the intangibles alluded to above—will have a depressing effect upon business confidence and will produce a tightening in the money market. Consequently, some increase in short-term interest rates is to be expected, because of both the immediate increased demand for funds deriving from the augmented wage bill, and increased liquidity preference. Increased liquidity preference, moreover, may tend to raise long-term interest rates as well.

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[13] "Liquidity preference is a potentiality or functional tendency which fixes the quantity of money which the public will hold when the rate of interest is given." J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 168.

This tendency for interest rates to rise will be accentuated by the changed pattern of consumption and saving which is likely to be produced by widespread wage increases. The effect of unions upon intended savings will depend in the main upon three factors:

1. The effect of union wage pressure upon profits. Successful union demands for higher wages reduce profits in union plants, but increase profits in unorganized plants. However, since at the present time even unorganized plants have to some extent been compelled to follow the union lead in wage adjustments, union wage increases on the whole probably reduce the profits of industry.

2. The inclination of the savings supply curve. The willingness to save depends in part upon the return on new investments. But since it is not known whether the inclination of the savings supply curve is positive or negative,[14] even if unions were to decrease the rate of return on investment, it is not possible to forecast the effect this would have on the volume of saving.

3. The extent to which income is shifted to labor from other income groups, and the effect this has on the propensity of the community to save. Changes in spending habits due to wage increases can be predicted only with great caution, since our knowledge about income-consumption habits is still inadequate. It is probable, however, that broad union wage adjustments, by shifting income from entrepreneurs to wage earners, tend to reduce the propensity to save of the community.

In any given circumstance, the occurrence of such a shift in income due to wage increases will depend upon the elasticity of demand for labor. If the demand for labor has an elasticity less than unity, wage increases will augment labor's share in the national income. Even if the demand for labor has an elasticity greater than one, it is still possible that labor's total income will increase if relief payments to unemployed are considered.[15] The existence of government unemployment insurance makes possible a higher level of union wage rates, since unions are more likely to press for higher wages if they know unemployed members will be supported out of the government treasury. Our tax policy is such, of course, that the burden of paying benefits to the unemployed is borne in large measure by the very same persons who would have had to pay these workers wages if they had remained in private employment. Consequently, while private business may pay a smaller amount directly to labor, as a result of wage increases, it is still possible that a transfer of income to labor will result. Such a transfer tends to swell the volume of consumption expenditures. The probable effect of such changes in income distribution and expenditure is to increase consumption at the expense of saving. It is generally true that the entrepreneur saves a proportionally greater part of his income than does the wage earner. Thus, with the redistribution of income which union pressure might produce, total savings would probably be reduced. As a consequence, interest rates may be expected to rise.

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[14] S. H. Slichter, "Notes on Collective Bargaining," in *Explorations in Economics* (New York, McGraw-Hill Book Company, 1936), p. 283.

[15] Professor John Dunlop considers the possibility that a trade union objective may be "the largest possible wage bill from the segment of the economy *including funds from the public support of the unemployed.*" See J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 37.

At the same time, there is likely to be an increase in the demand for funds for investment purposes by non-union companies; for, by raising, or preventing a decline in, the costs of union firms, union wage pressure encourages the entrance of new non-union firms and the expansion of existing non-union productivity capacity. This increased demand for productive capacity with which to compete against union firms, coupled with a decrease in the supply of funds available for investment purposes will cause a decline in the price of market securities (i.e., the inverse of the rate of interest). The net effect, therefore, of union wage pressure upon the money market will be to produce a tendency toward a rise in both the long-term and short-term rates of interest. The strength of this tendency will depend upon the proportion which union wages constitute of the total wages and salaries bill of the economy. Whether the changed conditions in the money market will actually produce a rise in rates of interest depends, of course, upon the willingness and readiness of the banking system to extend credit sufficient in amount to offset the increased demand for funds.

EFFECT OF AN INCREASE IN INTEREST RATES

If the banks do not increase the supply of money *pari passu* with the rise in wage rates, some increase in interest rates will follow. This increase will, on the one hand, tend partially to offset the effect of wage increases in stimulating mechanization in union firms and, on the other hand, may actually induce a substitution of labor for capital in non-union companies whose wage rates have not risen along with those in union plants. While this latter situation becomes a distinct possibility in the precise realm of orthodox theory, it is not likely to be realized in actuality. It presupposes a degree of sensitivity of the process of mechanization to differences in the level of wage and interest costs, which is not warranted by industrial experience. The rise in interest rates is not likely to be sufficient to produce any significant change in the relative pace of mechanization in union as compared with non-union firms.[16] Moreover, this tendency to substitute labor for capital may be offset to the extent that non-union wage rates are drawn up by a sympathetic movement as a result of union wage increases. Furthermore, managements in deciding how to invest their depreciation allowances frequently neglect to include the market rate of interest as part of the capital cost. Hence, despite the rise in interest rates, businessmen will continue to invest depreciation allowances in long-lived labor-saving machinery.

It has generally been assumed in classical economic theory that a rise in the rate of interest will produce a contraction in the volume of employment in the long run. Recent theoretical discussions and investigations[17] have suggested that the level of the rate of interest may not have quite the importance in entrepreneurial decisions that economists attribute to it; but these criticisms would seem to pertain more to reductions of the interest rate rather than to increases. It is probably more difficult to get the economy operating at full capacity than to stop it. A rise in interest rates will make many ventures involving large capital expenditures unprofitable and so will reduce the volume of expenditure and employment. While rising profit expectations characterizing a boom phase of a cycle may often obscure this underlying influence, in the long run—which is our present concern—a rise in interest rates, other things being equal, tends to reduce the level of employment.

The Reaction of Capital Goods Prices

Whatever the magnitude of the increase in rates of interest due to wage increases, some time will elapse before its influence is felt; a more immediate consequence of the increase in wage rates will be a rise in the price of capital goods. This increase is likely to be much more pronounced than the increase in the interest rate, since the proportion of union wages to all wages in the capital goods industry will be greater than the proportion of the union wage bill to the total wages and salaries bill in the economy at large. Therefore, it can be expected that union wage pressure will have a more perceptible effect upon prices in this particular industry than upon general prices or upon the rate of interest which is the general price for money.

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[16] In a number of partially organized industries, it will be found that non-union firms, despite their lower wage levels, have more highly mechanized production techniques than their unionized competitors. The reason is that new capital tends to flow into the low-wage non-union areas, and new capital is invested in more modern highly mechanized equipment.

[17] See for example, J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), particularly p. 378; J. F. Ebersole, "The Influence of Interest Rates upon Entrepreneurial Decisions," *American Economic Review*, **28**:74–75 (1938, supplement).

Moreover, because of oligopolistic price relationships prevalent in the capital goods industry, the influence of union wage increases is likely to be extended beyond the immediate sphere of union firms. Leader-follower relationships in price policies are a natural outgrowth of the relatively small number of firms in this industry.[18] In view of the structure of the industry, it is reasonable to assume that when a wage increase raises the costs of a majority of the producers, the ensuing price increase will be followed by most producers even if their costs have not been raised to a corresponding degree. Conceivable, of course, is the circumstance in which the wage increase coincides with a kink in the demand curve of individual producers with the result that no increase in price is forthcoming. This situation might arise if the price leaders in the industry were doubtful as to whether the rest of the industry would follow their move to alter prices. On the whole, however, the most likely hypothesis is that the union wage increase in the capital goods industry will be reflected in a price increase of most producers goods and that in the industry the area of price increase will exceed the area of the wage increase.

The extent to which prices of finished producers goods will rise will depend upon the elasticity of demand for the product and upon the slope of the marginal cost curve of individual firms in the industry. If marginal costs are constant and the concavity of the individual demand curve[19] is so great that the slope of the marginal revenue curve is equal to the slope of the demand curve, the price charged by the individual manufacturer of machinery will rise by the full amount of the wage increase. On the other hand, if marginal costs are rising, or if the demand curve is convex, the effect of the wage increase upon price will be small. In the extreme case where the supply is perfectly inelastic or where the convexity of the demand curve is infinite, so that there is a kink in the curve, there will be no rise in price at all.[20] Most cost and demand situations will fall between these two extremes, so that in the general case, prices of capital goods will rise by less than the full amount of the wage increase. Consequently, substitution of machinery for labor will still be of some advantage to the producer.

Thus, like the rise in interest rates, the rise in prices of capital goods tends to rob the wage increase of some, but not all, of its effectiveness as a stimulus to mechanization. However, the increase in price of capital goods has much more significance than the increase in interest rates, because the increase in producers goods prices will manifest itself in a comparatively short time. The time elapsing between a wage increase and any attempt to substitute labor-saving machinery will ordinarily be longer than the time lag between an important series of union wage increases in a major industry and resultant wage and price increases in the capital goods industry. The former lag must be measured in years, the latter in months.

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[18] See A. R. Burns, *The Decline of Competition* (New York, McGraw-Hill Book Company, 1936), chap. 3.

[19] This analysis ignores the fact that union wage increases extending throughout most of an industry will affect individual demand curves by altering the share of the total sales obtained by each firm.

[20] This appraisal of the effect of wage increases upon prices is adapted from the analysis presented by Joan Robinson in *Economics of Imperfect Competition* (London, Macmillan and Company, 1933), pp. 76–82.

The growth of unionism has tended to accelerate the spread of wage increases from one part of the economy to another, but the fixity of equipment still remains a stubborn obstacle in the path of rapid substitution. Moreover, because the capital goods industry is highly unionized and strategically situated in the economic network of industry, wage increases elsewhere in the economy are almost certain to register their effect upon this industry. In recent years, the inception of union drives for upward revision of wage rates has typically originated in such industries as steel and automobile manufacturing. Because of the fact that the mass of workers in the capital goods industry have skills similar to workers in these "leading" industries, and indeed are often members of the same union, wage increases in one are quickly communicated to the other.

EFFECT OF PRICE CHANGE OF CAPITAL GOODS ON SUBSTITUTION

Imagine, for example, a sequence of union wage increases beginning in the automobile industry, spreading to the steel industry, and then to related industries—to machine tool and fabricating industries, and to the makers of industrial equipment. Suppose further that the wage increase in the automobile industry does act as a stimulus to entrepreneurs to improve their technique of production. According to sound orthodox theory, they should decide to replace the expensive labor with labor-saving machinery, but because of the fixity of equipment, some time will elapse before the actual substitution can be effected. Meanwhile, however, the wage increase spreads to the machine tool and equipment industries, causing an increase in the price of machines.

The relative magnitude of the increase in wage rates in the automobile industry and the increase in prices in the capital goods industry will depend—in addition to the cost and demand conditions previously discussed—upon the relative strength of unions and the nature of competitive practices in the two industries.

Two extreme cases can be distinguished to indicate the range of relationships possible between the rise in prices in the capital goods industry and the rise in wage rates in the industry purchasing the machinery. The minimum stimulus to substitute machines will exist if the union in the latter—in our example, the automobile industry—is relatively weak, while the union in the capital goods industry is strong,[21] and if the wage increase in the capital goods industry is used by producers as a pretext to achieve a general new alignment of machinery prices. In this instance the rise in wage rates in the automobile industry will be comparatively small, while the rise in price of machinery may be more than in proportion to the rise in wage rates. On the other hand, the maximum stimulus to purchase machinery will exist if the union in the automobile industry is strong by comparison to that in the capital goods industry, and if the wage increase in the capital goods industry occurs at a time when price stability is felt by the producers to be desirable. In this case, a kink may exist in the demand curve at the established price, with the result that no price increase will follow the rise in wage rates.

In the general case, however, the price of capital goods will not rise in proportion to the rise in wage rates in the industry contemplating purchase of equipment. Nevertheless, the rise in the price of machinery which normally will occur will tend to decrease in part the effectiveness of the wage increase in stimulating substitution of machinery for labor.

There are times, however, when union wage pressure will be felt most strongly in the capital goods industries. Should this happen, the possibility exists that the price of machinery will rise more than in proportion to wage rates in industries which are prospective purchasers of equipment. In 1946, for example, the wage increases in the machine-making industries generally *exceeded* the wage increases in the machine-using industries. The former tended to follow the lead of the steel industry with awards clustering around 17 per cent, but these large settlements were by no means typical of consumers goods industries. From August 1945 to May 1946, 60 per cent of workers receiving wage adjustments in metal working industries (excluding basic iron and steel and shipbuilding) received wage increases of 18 cents or more per hour, whereas in manufacturing as a whole, only 41 per cent of the workers received wage increases of this magnitude.[22] Unfortunately for the student of labor problems, price ceilings tended to obscure the effect of the wage adjustments, but if prices had been uncontrolled, it is possible that some prospective purchasers of machinery would have found that the price of machines had advanced more than in proportion to the wage increase in their own industry.

The shorter the life of the particular piece of equipment, the more a rise in its price will act as a deterrent to its purchase. For very long-lived machinery, however, the level of the interest rate becomes a more important factor in the entrepreneur's calculations. Since the rise in the interest rate is likely to be relatively less than the rise in wage rates, it would seem that some incentive would still remain to substitute capital for labor, if the entrepreneur behaves as orthodox theory claims he should. However, for long-term investment, the state of business confidence which affects the "write-off period"—the businessman's estimation of the time it will take for improvements to pay for themselves—may be more important than the interest rate in fixing the margin of profitability of the introduction of new machinery.[23] If continued union wage pressure results in some impairment of business confidence, the consequent shortening of the write-off periods is likely to offset any stimulating effect wage increases may have on long-term investment in new machinery. On the other hand, if, because of growing union strength, employers look forward to a long period of steadily rising labor costs and general prices, investment in new more efficient plants and equipment may be substantially stimulated with favorable repercussions on the level of employment.

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[21] Thus, to the extent that workers engaged in making capital goods are more highly organized than labor in industry at large, investment opportunities are limited and the flow of technological progress is diminished.

[22] "Postwar Increases in Basic Wage Rates," *Monthly Labor Review*, **63**:342–345 (1946).

Wage Increases and Capital Depletion

An important factor entering into determination of the long-run level of employment is the rate of capital accumulation. An increasing stock of capital equipment assures a continuing high demand for labor as well as a high standard of living for the community in general. But sharp upward union wage adjustments continuing year after year in excess of the normal increase in productivity may check the normal growth in the capital stock of the nation.

In the first place, union wage increases may produce some capital consumption through actual liquidation of firms. This is most likely to occur in industries which are only partly organized. The unionized firms, forced by union pressure to raise wages, will be put at a competitive disadvantage with non-union firms whose wage rates have not risen concomitantly. As a result, many of the unionized firms will be forced into bankruptcy. In the second place, sharp union wage increases continuing year after year may so diminish the anticipated rate of profit in certain industries that businessmen will fail to make necessary replacement in plant and equipment. As a result of these two tendencies, capital equipment will be unutilized and become overaged.

The total stock of capital of the economy may also be reduced because of the unfavorable impact of wage increases upon the rate of saving and investment. Since a large proportion of the saving in our society is corporate saving, i.e., saving out of profits, a rise in wage costs—to the extent that it decreases entrepreneurial and corporate profits—will react unfavorably upon saving. This tendency will be accentuated in the case of firms, which, though suffering a reduction in profits, reduce dividends by less than the amount of such reduction because they "want to keep the shareholders quiet."[24] If dividend receivers, in turn, reinvest the funds in industry, then, to that extent, the unfavorable tendency will be offset; but generally, there is more probability that the funds will be invested if they remain with the corporation than if they are disbursed to individuals.

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[23] See N. S. Buchanan, "Anticipations and Industrial Investment Decisions," *American Economic Review*, **41**:141–155 (1941, supplement); R. P. Mack, *The Flow of Business Funds and Consumer Purchasing Power* (New York, Columbia University Press, 1941).

Summary

The analysis of wage-employment relationships in this chapter has indicated that even if employers all pay their employees wages equal to their marginal revenue products, a general rise in wage rates, under certain circumstances, may still not produce displacement of labor because of the effect the wage increase may have upon the price of machinery, the rate of interest, and effective demand. In actuality, of course, wage rates and marginal products are never perfectly equated, so that there is an additional reason why wage changes frequently have no observable effect upon employment.

The degree of correspondence between wage and employment changes may vary over the business cycle. Moreover, union-induced wage changes which alter costs and demand over a broad area of industry may themselves alter the cyclical pattern of fluctuation in employment, investment, and income. The role of wage policy in the business cycle will be the subject of our consideration in the following two chapters.

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[24] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 193.

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Wage Policy in Business Cycle Theory

The movement of wage rates during the business cycle is not a crucial or primary causal factor in most cycle theories. This is not surprising, since *cycle* theory is an explanation of the *periodicity* in business fluctuations. It therefore must seek as a basis some inherently unstable mechanism in the economic system, which either through self-generation, or else in conjunction with external forces, produces oscillations in employment and income. While wage rates do show fluctuations over time, these movements by and large represent reactions to underlying business conditions which must be explained by other and more fundamental determinants. Since changes in wage rates are not likely to be a primary cause of the fluctuations in business activity which have characterized American economic development, any alteration in the general pattern of wage movements induced by union organization is more likely to modify, rather than to eliminate, cyclical movements in employment, income, and prices.

Review of Business Cycle Theory

THE UNDERCONSUMPTION THEORY

Most union members and union leaders are underconsumptionists in their economic philosophy. They believe that the explanation of business breakdowns must be sought in deficient consumer demand, rather than in insufficient investment outlets. Union literature explains the depression of the thirties by the failure of business to increase money wages to a degree sufficient to create a consumer demand adequate to carry off the great outpouring of goods that characterized the boom years.[1] The view that wages must continually be increased in order to keep pace with increasing production was formally adopted as a principle of wage policy by the American Federation of Labor at its 1925 convention, when it was declared:

> Social inequality, industrial instability, and injustice must increase unless the workers' real wages, the purchasing power of their wages . . . are progressed in proportion to man's increasing power of production.[2]

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[1] "The Depression was caused principally because of an unsound division of the national income." J. P. Frey, "Business Depends on Wages," *American Federationist,* 40:383 (1933). Mr. Frey is president of the Metal Trades Department of the AFL.

[2] *Report of Proceedings of 45th Annual Convention* (New Jersey, 1925), p. 271.

Before examining underconsumptionist views in the light of union wage policies, it is essential to distinguish two variants of the underconsumption theory. The first is the "vulgar" theory which erroneously identifies purchasing power and wages. According to this version, profits which are plowed back into business for purposes of expansion, rather than being paid out in the form of wages, are lost to purchasing power. As a consequence, insufficient funds are available in the market for consumers goods to carry off the flow of products which results from the abortive investment.

The fallacy in this reasoning is apparent. Wages are only a portion of the income stream. In 1945, wages and salaries constituted only 71 per cent of total national income[3] and the proportion represented by wage payments to workers in industrial concerns would be much less. The fact is that all costs, whether they represent payment for new plant or for wages, ultimately become disposable income for someone. Hence there must necessarily be a sufficient amount of purchasing power continually being put into circulation to make possible the purchase of current output at prices covering the total costs of its production.[4] The larger total volume of goods need not, and probably will not, be sold at former prices; for since the new investment makes possible a reduction of costs, the goods can be sold at lower prices without loss to their producers.

A more sophisticated variant of the underconsumption theory identifies underconsumption with oversaving.[5] This theory is unique in that the movement of wage rates relative to prices plays a major role in the propagation of cyclical forces. The contention made by its proponents is that the lag of wages behind prices in a period of good business tends to produce an excessive volume of profits. Since the bulk of savings comes from the high income brackets, the distortion of income produced by the profit inflation diverts funds into the channels of savings at the expense of the market for consumers goods. The excessive profits, moreover, encourage overexpansion and additional borrowing at the same time that the withdrawal of funds from the consumers goods markets precipitates a fall in prices. The boom finally ends in crisis, because excessive saving has brought into existence a greater supply of capital equipment than the rate of spending on consumption warrants.

How would union wage policy be expected to affect the business cycle from the standpoint of this theory? Union wage policy can affect the cycle primarily through influencing the relation between wages and prices. The nature of this influence exerted by unions, which will be examined in more detail in the next chapter, is by no means clear. There is considerable evidence that union organization increases the lag of wages behind prices in the downswing phase of the cycle. But the influence exerted by unionism on the wage-price relationship in the upswing is subject to controversy. Union pressure for higher wages probably accelerates the rise in wages over the cycle, as compared to the rate of increase which would prevail in the absence of unions. But as long as prices are free to vary, the more rapid increase in rate of wages may simply be accompanied by an equally rapid rise in prices. Indeed, there is some reason for believing that union organization may actually increase the lag of wages behind prices in the upswing. Union contracts frequently set wage levels for a year or more in advance, during which time a substantial change in prices can occur. Whether the effect of union contracts will be to increase the lag of wages behind prices will depend upon the length of time for which contracts are negotiated and the extent to which unions utilize escalator clauses, providing for increases in wage rates as the cost of living rises.

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[3] *Economic Almanac for 1946–47* (New York, National Industrial Conference Board, 1946), p. 44.

[4] A. G. Pool, *Wage Policy in Relation to Industrial Fluctuations* (London, Macmillan and Company, 1938), p. 75.

[5] Perhaps the best known exponent of this theory is J. A. Hobson, *Economics of Unemployment* (London, Allen and Unwin, 1922).

For the purposes of the theoretical exposition of this chapter, however, it is convenient to assume that union wage contracts will increase the lag of wages behind prices in both upswing and downswing phases of the cycle. In this chapter, we are primarily concerned with developing a familiarity with the conceptual apparatus of various theories of the business cycle. It will facilitate consideration of the influence of union organization upon the cycle, from the point of view of these various theories, to make this simplified assumption. If future empirical investigation should reveal that unions tend to lessen the lag of wages behind prices in the upswing, the reader will at least be equipped with analytical apparatus and a knowledge of basic theories so as to understand the significance of these statistical findings.

From the standpoint of the underconsumption theory, union organization appears to be a factor which would increase the amplitude of the boom phase of the cycle. To the extent that union contracts broaden the lag of wages behind prices, the rise in business profits will be accentuated. This will induce a further expansion in investment expenditures. As a consequence, the boom period will be prolonged and the eventual readjustment of costs and prices rendered more difficult to achieve.

On the other hand, to the extent that unions secularly reduce the distortion of income between high and low income groups, and thus reduce savings, the degree of oscillation in the economic system would, according to this theory, be diminished.[6] If union wage increases were so timed as to increase wage disbursements at the peak of the boom, on the basis of the underconsumption theory, it would be expected that the boom could be perpetuated, though as will become apparent in the remainder of this chapter, a contrary conclusion would be reached by other cycle theories.

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[6] Contrast this view with that elaborated below, p. 422, in connection with the discussion of the multiplier. If unions were successful in shifting income from the entrepreneurial class to wage earners, this would tend to raise the marginal propensity to consume, increase the multiplier, and thus create a wider amplitude of fluctuation in the course of the business cycle.

The underconsumption theory, though it has enjoyed a considerable vogue among labor leaders, has been widely criticized because of its failure to conform with the observed characteristics of industrial fluctuations. Thus, there is the fact that interest rates rise at the end of a boom, whereas according to this theory, saving should be at its height, and therefore interest rates should be falling. Similarly, the theory fails to explain the observable downturn in the capital goods industries which occurs before any downturn in the consumers goods industries and at a time when retail sales are still booming.

THE PURELY MONETARY THEORY

While the underconsumption theory points to the desirability of a reduced wage lag in the upswing and probably an increased wage lag in the downswing so that unionism is only "half-bad," the monetary theory of the cycle would probably blacklist unionism in both prosperity and depression.

The purely monetary theory explains cyclical variations in business by the inherent instability of the credit mechanism.[7] According to this theory, changes in interest rates induce changes in the size of inventories held by merchants and through these changes affect the level of production in the capital goods industries. The boom comes to an end because the banks refuse to continue to extend credit at the previous rate, and revival is delayed until inventories and interest charges are reduced to a level at which merchants are again induced to increase their stocks of goods.

As long as our banking system is free to expand and contract credit, cyclical fluctuations in business will continue, say the monetary theorists. How, then, does union organization affect the course of the business cycle? The leading proponent of this theory has suggested that appropriate adjustments in wage levels might eliminate cyclical swings altogether!

> All the mischief of trade fluctuations arises from the tendency of changes in wages to lag behind changes in the value of money. For if an increase or decrease of credit promptly brought with it a proportionate increase or decrease in the demands for cash, the banks would no longer either drift into a state of inflation or be led to carry the corresponding process of contraction unnecessarily far. Thus . . . if the working classes would accept an early reduction of wages when a period of bad trade begins

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[7] See R. G. Hawtrey, *Good and Bad Trade* (London, Constable and Company, 1913); *Currency and Credit* (New York, Longmans, Green, 1928).

> and if employers would give an early increase of wages when a period of good trade begins, not only would the harmful consequences of a trade fluctuation be avoided, but the fluctuation itself might be prevented.[8]

This conclusion, as well as the major premise that the cycle is purely monetary in its origin is open to the criticism that it places insufficient emphasis upon the really dynamic factors in our economic and technological environment which shape business activity. For example, the theory tacitly assumes that if only the monetary difficulty could be overcome, inventions, wars, cycles of optimism and pessimism in business sentiment, and other factors would be more or less neutralized by the straight jacket on bank credit. Nevertheless, it is interesting to note that in so far as this theory affords a valid explanation of the derivation of cyclical forces, union organization would tend to aggravate maladjustments in both phase of the cycle. By increasing the lag of wages behind prices in the upswing, long-term union wage contracts would tend to reduce the drain on bank reserves which results from increased demand for cash associated with higher wage incomes. Thus, credit expansion would be enabled to go on longer, larger inventories could be built up, and the eventual collapse and readjustment would be rendered that much more difficult. On the other hand, in depression the wage lag (which would manifest itself in the form of a delay in wage reductions) would impede recovery by preventing banks from securing the necessary degree of liquidity. Were wage reductions to occur more promptly after the downturn in business, the consequent decline in wage incomes would reduce the demand for cash and thus would ease the strain on the banking system.

However, there are certain periods during which rigidity of wage rates would be helpful even on the basis of this theory. A "credit deadlock"[9] would be a case in point. The term is applied to a period of business decline when the rate of reduction of prices is so rapid that even a large reduction in the interest rate will prove ineffective to revive the flow of money. Such a situation may be rare, but apparently contributed to the difficulty of recovery from the depths of the 1933 depression. In such a deflationary downswing, rigid wage rates, by arresting the fall in prices, make less likely a serious credit deadlock. Although according to some theories, the rigidity of wages would be undesirable since it would discourage capital investment, in the purely monetary theory this difficulty does not arise because the crucial factor is the size of inventories; and for these stocks, wages are not an important carrying cost. If wage rigidity tends to retard the fall in prices and in effective demand, and if it makes employed labor less reluctant to spend, inventories will be depleted, merchants' anticipations improved, and the stage set for recovery.

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[8] R. G. Hawtrey, *Good and Bad Trade* (London, Constable and Company, 1913), p. 265.

[9] R. G. Hawtrey, *Good and Bad Trade* (London, Constable and Company, 1913), p. 186.

THE MONETARY OVERINVESTMENT THEORY

The monetary overinvestment school,[10] as its name implies, ascribes a major role to the instability of credit, but goes beyond the purely monetary theory in stressing that the cycle is not simply a monetary phenomenon. During the course of the cycle as real maladjustment is created in the structure of production as a result of credit expansion. An increase in bank credit reduces the money rate of interest below the natural rate and leads to the lengthening of the period of production. That is, the reduction in the rate of interest below the rate which equilibrates the supply and demand for savings, makes relatively more profitable the "higher" stages of production which are farthest removed from consumption and which are most sensitive to changes in capital cost. Means of production are drawn into producers goods industries partly at the expense of consumption goods industries. This is the boom phase of the cycle, characterized by overinvestment in the capital goods industries. Overinvestment is used by these theorists in the sense of a larger volume of expenditure on capital goods relative to consumption goods than is justified by the voluntary allocation of income by the community between consumption and savings.

Since, however, there has been no change in the pattern of consumption of the community, the increased employment and production in the capital goods industries cannot permanently be maintained. As money is paid out by these industries in wages, the increase in incomes will expand the demand for consumers goods. Prices for consumers goods will rise and the consumers goods industries will tend to bid away the factors of production from the producers goods industries. The latter may be aided for a time by further injections of credit through the banking system, but eventually the rise in interest rates will put an end to their ability to finance production by further borrowing. Investment then collapses and with it the boom. The denouement is fundamentally attributable to a shortage of capital, which for this theory is equivalent to undersaving and overconsumption.

The merit of the monetary overinvestment theory is that it explains why interest rates rise at the end of the boom and why consumption goods industries continue to prosper after investment has already turned down. On the other hand, the theory has been criticized on a number of grounds. It assumes that capital accumulation itself cannot produce cycles without credit expansion. While it may be conceded that credit expansion by the banks adds to economic instability, many economists believe that cyclical fluctuations will exist as long as the technological background is in a constant state of flux.

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[10] See F. A. von Hayek, *Prices and Production* (London, George Routledge and Sons, 1935); *Monetary Theory and the Trade Cycle* (London, Jonathan Cape, 1933).

Another object of criticism has been the assumption that the producers goods industries will decline when the demand for consumption goods expands. This assumption is proper only if full employment has been reached. If there are no longer unemployed workers in the labor market at the time when the demand for consumers goods increases, then the expansion of the consumers goods industries can be accomplished only by a concomitant contraction of producers goods industries through the bidding away of factors of production to the relatively more profitable consumers trades. On the other hand, if the stimulus to the consumers industries occurs when there are still unemployed workers available, then the expansion of consumers goods production will impart a magnified stimulus to the production of capital equipment. The reason for the accelerated effect of the original stimulus to the consumers goods industries is that a slight rise in consumers goods prices greatly widens the margin of profit in these industries which, when capitalized, causes a large increase in the prices of producers goods. This relationship has been given the name of the "acceleration principle"[11] and plays an important role in business cycle theory. It indicates that, under certain circumstances, an expansion of consumer demand need not have the depressing effect upon capital goods production which is stressed in the monetary overinvestment theory.

Assuming however that the theory is valid, would union organization alter the course of the trade cycle? As the boom wears on, what is needed for its continuance is an increase in voluntary saving—further reduction in the rate of interest. If people were to save more by curtailing consumption, the consumers goods industries would be less able to bid factors away from the capital goods industries and the reduction in interest rates attributable to the augmented savings would permit increased investment. In so far as union contracts extending for a year or more increases the lag of wages behind prices, there will be a tendency in both these directions. On the one hand, an increased wage lag will tend to slacken the rate of increase in demand for consumers goods and therefore put the producers goods industries at less of a disadvantage in bidding for factors. On the other hand, the wage lag will raise profit margins, thus stimulate savings, and tend to lower the rate of interest. These two effects will enable a continuation of the boom. Whether such a result is desirable or not is arguable. The monetary theorists on the whole seem to take the view that prolonging the boom will only add to the difficulties of the eventual readjustment.

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[11] For a discussion of this principle see J. M. Clark, "Business Acceleration and the Law of Demand," *Journal of Political Economy*, **25**:217–235 (1917). R. F. Harrod uses this principle under the name of the "relation." See his book, *The Trade Cycle* (Oxford, The Clarendon Press, 1936), chap. 2.

While both monetary overinvestment theorists and underconsumption theorists speak of "overinvestment," this term has a different meaning for each. For the former, it is overinvestment relative to the capital supply out of voluntary savings; for underconsumptionists, it is overinvestment relative to consumer demand. For the monetary overinvestment school, credit expansion is the real source of difficulty, and profits attributable to the lag in wages behind prices simply contribute to an expansion of an already inflated demand. For underconsumptionists, on the other hand, it is the insufficiency of consumer demand itself which precipitates the breakdown. Excessive profits are dangerous not via credit inflation but because they are the source of excessive saving.

There is one aspect of unionism which on the basis of the overinvestment theory will bring the boom to a quicker end. This is the fact that unionism lessens the degree of dispersion of wage rates and tends to make wage rates throughout the economy move together in a more uniform fashion. In a largely non-union economy, with imperfect mobility of labor, wages in various sectors would tend to reflect the business fortunes of particular industries. Thus in the boom, when capital goods industries begin to find demand declining, wages would be reduced in these industries even though they might still be rising in consumers goods industries.

Established unionism, however, seems to have little regard for the "ability to pay" of an industry, when making its wage demands. Thus the percentage increase in hourly earnings in railroads, mining, and manufacturing has been approximately the same despite the fact that the former two are declining industries, while the latter is expanding. From 1909 to 1939, railroads and mining were highly unionized industries, whereas manufacturing was largely non-union. During this period, index numbers of average hourly earnings increased from 37 to 120 in steam railroads, from 41 to 111 in mining, and from 36 to 120 in manufacturing[12] (using 1923–1925 as base period).

It is therefore reasonable to expect that in a highly unionized economy, wages will move up more evenly (though possibly with a greater lag) in the boom, and this will aggravate the already depressed condition of the capital goods industries in the later stages of the period of prosperity. Thus, though the increased lag of wages will increase the demand for capital goods by bringing forth a larger volume of saving, the greater rigidity and more uniform rise of wage rates will make the position of the producers of capital goods less advantageous. The bidding up of wage rates in the expanding consumer industries will be quickly imparted to the capital goods industries despite their relatively less favorable profit position.

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[12] *Monthly Labor Review*, **51**:524 (1940).

It is conceivable that on balance unionism would have no effect at all upon the cycle, these two influences—wage lag and wage uniformity—merely canceling out in their effects. However, it seems more probable that the phenomenon of the wage lag will be more pronounced than the other, so that unionism will make for a more prolonged period of prosperity. In depression, the continued rise of union wages or their downward rigidity will divert more of the community's productive resources to supplying consumers needs. Consequently, there will be an excessive "shortening" of the productive apparatus and the depression will be made longer and more severe. The monetary overinvestment school believes that deflation is a necessary consequence of the boom. Revival is brought about by the gradual approach to equilibrium. Rigid wage rates, by preventing thorough-going deflation would, according to this theory, prolong the maladjustments which developed during the boom and thus delay the advent of recovery on a sound basis.

THE NON-MONETARY OVERINVESTMENT THEORY

The writers of this school differ from the monetary theorists primarily in the matter of emphasis. Both utilize the instability of the monetary mechanism to explain the customary pattern of inflation and deflation over the cycle. But whereas the monetary theorists believe that the cycle could largely be eliminated by preventing expansion and contraction of bank credit, the non-monetary overinvestment school holds that cycles would recur even if new investment were financed entirely through voluntary savings.

The reason given is that progress in a capitalistic economy characteristically proceeds by fits and starts. The primary force impelling fluctuations in economic activity is the impact of outside influences—inventions, wars, new discoveries. These are the factors which raise the marginal efficiency of capital and induce entrepreneurs to risk capital in new ventures. But when the new investment has caught up with the developments of science and technology and exploited to the limit what is economically feasible, all that remains for a while is mere upkeep and replacement.[13] New investment contracts as a consequence, output and employment recede, and depression sets in.

How does wage policy figure in this theory of the business cycle? Since this theory is eclectic with regard to the development of inflationary forces in the boom and deflationary influences in the downturn, the same conclusions regarding the effect of a wage lag which were made in the discussion of the monetary theories are pertinent here. The non-monetary overinvestment theory is distinctive, however, in its view of the inception of the recovery phase of the cycle. These theorists[14] believe that automatic adjustments within the economy are not sufficient to revive business activity from a depression low. Stronger incentives must come from outside, such as new inventions or discoveries of new markets. This contention is substantiated by the fact that cycles of the nineteenth century were typically ushered in by discoveries and inventions.[15]

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[13] A. Hansen, *Full Recovery or Stagnation* (New York, W. W. Norton and Company, 1938), p. 139.

Does this mean then that the level of labor costs in depression will have no effect upon the rapidity of recovery? There would seem to be two important ways in which the level of wage rates is relevant to the generation of recovery as explained by this theory:

In the first place, the pattern of recovery according to this theory is profoundly affected by the tendency of new methods to be introduced en masse. Wherever a few successful innovators appear and venture successfully, immediately a host of others follow suit.[16] But suppose that unions immediately raise wage rates in the successful new plants in an attempt to secure a major share of the gains deriving from improved technology. Such a wage policy vigorously pursued would not only retard expansion of employment and production in these plants, but also would discourage the construction of similar plants by prospective competitors. Entrepreneurs will not risk capital in new and hazardous ventures unless they see the prospect of high profits. Hence if unions were to pursue a policy of attempting to limit profits to their 1936–1939 "normal,"[17] an incipient boom might be nipped before it became full grown. The non-monetary overinvestment theory, therefore, does depend upon a lag in wage behind prices sufficient to produce a volume of profits which will attract other entrepreneurs to undertake new investment. It is important to note that the crucial relation is the lag of wages behind prices in those new or expanding firms which carry the seed of the business recovery. What union policies will be in such firms where technological and productivity changes are most rapid remains to be seen.

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[14] The non-monetary overinvestment theory is associated with the names of Professor A. Spiethoff and Professor G. Cassel. For an exposition of their views, see G. Haberler, *Prosperity and Depression*, rev. ed. (Geneva, League of Nations, 1939), p. 81.

[15] G. Haberler, *Prosperity and Depression*, rev. ed. (Geneva, League of Nations, 1939), p. 81.

[16] J. Schumpeter particularly emphasizes this process of competitive imitation in his theory of the cycle. See *The Theory of Economic Development* (Cambridge, Harvard University Press, 1939).

[17] The notion that this period should be taken as a basis for figuring normal profits was advanced by Robert Nathan in his analysis of wage policy prepared for the CIO. See *A National Wage Policy for 1947* (Washington, Robert Nathan Associates, 1946), p. 9.

In the second place, while outside influences such as inventions are often the impelling force in recovery, it is not entirely true that the economy cannot revive itself through an internal process of readjustment. The gradual exhaustion of inventories, the fall in wage costs, the decline in interest rates, the reduction in construction costs—all these ultimately make the prospect for new investment more attractive. Therefore—except possibly in a very severe depression—the automatic processes of the economic system could revive the economic mechanism if wage rates and prices remain flexible. But when wage rates remain rigid, this automatic process of adjustment is impeded and the economy becomes more dependent upon outside influences to initiate recovery. Thus, union wage rigidity lends new importance to the theory of generation of cycles expounded by the non-monetary overinvestment school.

This theory, however, suffers from an undue emphasis upon the conditions in the capital goods industries. While it is true that the output of these industries is subject to sharp fluctuation over the cycle and is particularly likely to be influenced by invention, consumers durable goods also show considerable fluctuation, and these industries can be stimulated by appropriate wage policy. Today the level of production in the automobile, radio, and electric appliance industries—all catering to consumer wants—plays a major role in determining the level of economic activity over the whole economy. In fact, expenditures of consumers on durable goods regularly exceed the expenditures of all forms of industry on capital goods.[18] Proper recovery policy, therefore, should seek to stimulate not only the inducement to invest but also the propensity to consume.

THE "SUBSTITUTION" THEORY OF THE CYCLE[19]

The changing relation of wages and prices over the cycle, in its relation to the length of the so-called "investment period," forms the basis of one recent theory of the cycle which, for want of a better title, may be called the "substitution" theory because of its emphasis upon this aspect of business policy. The theory is an elaboration of a principle laid down early in the history of economic thought, that "a rise in the price of the product (or a fall in real wages) will lead to the use of relatively less machinery and other capital and of relatively more direct labor in the production of any given quantity of output."[20] If we assume that money wages remain relatively inflexible over the cycle, while prices are free to vary, then the full effect of this changing relation can be subjected to detailed analysis.

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[18] S. H. Slichter, "The Changing Character of American Industrial Relations," *American Economic Review*, **28**:134 (1938, supplement), note 29.

[19] The principal exponent of this theory is F. A. von Hayek in *Profits, Interest, and Investment* (London, G. Routledge and Sons, 1939). See also L. M. Lachmann, "A Reconsideration of the Austrian Theory of Industrial Fluctuations," *Economica*, **7**:179–196 (1940).

[20] This principle was first expounded by D. Ricardo in *Principles of Political Economy* (New York, E. P. Dutton and Company, 1926). It should be noted that Ricardo recognized that his analysis was applicable only to the long run (see for

In the upswing as prices tend to rise as a reflection of increasing demand and the rising tempo of business activity, businessmen will find it increasingly profitable to turn over their capital more quickly rather than to invest it in long-term labor-saving equipment. Speculative holdings of commodities and securities and technical processes of short duration will become more attractive than capital intensification. The reason for this change can be illustrated by a simple table:

*Table 21**

	Labor Invested for				
	2 years	*1 year*	*6 months*	*3 months*	*1 month*
Initial amount of profit in each turnover (in per cent)	12	6	3	1.5	0.5
	(all corresponding to 6 per cent per annum)				
Add 2 per cent additional profit on each turnover due to rise in price of product (in per cent)	14	8	5	3.5	2.5
	(which corresponds to a per annum profit rate of)				
	7	8	10	14	30

* F. A. von Hayek, *Profits, Interest, and Investment* (London, G. Routledge and Sons, 1939), p. 9.

In equilibrium, the profit rates per turnover period will be proportional to the length of the turnover period, so that they all will be equal per annum (say, 6 per cent). When prices rise, the time rate of profit will be increased much more for labor invested for short periods than for labor invested for long periods.[21] Consequently, businessmen will be induced to use more direct labor with their machinery and will find it profitable to buy less durable, less expensive, and less labor-saving machinery. In other words, the fall in real wages (i.e., the rise in prices relative to wages) which occurs during the boom phase tends to diminish the demand for the output of the capital goods industries while increasing the tendency to speculation, and thus produces the crisis which ushers in the depression.

On the other hand, revival from the depression is generated by an

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example his letters to Malthus), and he would probably have been the last person to apply his substitution effect to business cycle analysis if such had existed at his time.

[21] F. A. von Hayek, *Profits, Interest, and Investment* (London, G. Routledge and Sons, 1939), p. 11.

opposite set of circumstances. In depression, prices fall while wages are maintained, with the result that real wages rise. The consequent fall in the rate of profit makes substitution of machinery for labor more profitable, and although at first the effect of this may be small, it is contended that eventually a point will be reached when the higher level of real wages will lead to an increase of investment and a revival of business activity.

If this relationship, as outlined, were a dominant force in the generation of the business cycle, union organization would probably exaggerate the amplitude of cyclical fluctuations in business activity. To the extent that unions increase the lag of money wages behind prices in the latter stages of the boom, the rise in the rate of profit in industries which can substitute labor for capital—i.e., use less capital per unit of labor—will be accelerated and this in turn will decrease the demand for machinery, diminish the volume of investment and so produce the crisis. In the depression, the greater degree of stickiness imparted by unionism to wage rates will tend to induce too intensive a substitution of machinery for labor and consequently set the stage for another orgy of excessive investment which characterizes the boom. Indeed, for this very reason, this theory justifies wage cuts in depression on the ground that it is desirable to prevent the rate of profit from falling too low and real wages from rising too high in the later stages of depression.[22]

This rather mechanistic theory is subject to a number of criticisms, most of which stem from the fact that substitution is primarily a long-run process which is not well adapted to the explanation of short-run cyclical changes in investment. According to this theory, it would be expected that most labor-saving equipment would be introduced in times of falling prices and declining business activity, because at such times the level of real wages is likely to be at its highest. This ignores the fact that the greatest gains in introduction of labor-saving techniques are made at a time when general investment is expanding and business expectations are favorable. The importance of general business expectations in determining the level of investment expenditure is well illustrated by the results of a survey conducted in 1933 by a committee of prominent industrialists to determine the reasons for absence of equipment purchases. The two answers most commonly given to explain the failure to purchase machinery were "Volume first has to increase," and "Business has to improve."[23] A rise in the level of prices relative to wage rates frequently heralds both of these conditions and therefore usually provides a substantial stimulus to long-term investment.

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[22] F. A. von Hayek, *Profits, Interest, and Investment* (London, G. Routledge and Sons, 1939), p. 62.

[23] *Mechanical Engineering* (February 1934), pp. 85–86. Replies were received from 169 companies in 13 different industries.

Furthermore, recent empirical investigation has revealed that in many companies technological change is more a function of output than of the relation of the prices of the factors. Companies, in considering the advisability of introducing a new labor-saving machine, frequently multiply estimated savings per unit of output by a forecast of production.[24] The result is a considerable stimulus to investment in new techniques during periods of expanding sales when prospective output is large, rather than in times of falling prices and declining output.

Even though a rise in prices relative to wages increases the time rate of profit on less capitalistic methods, the favorable effect upon business expectations is so much more important that capital investment and substitution of capital for labor is likely to increase despite the fall in real wages. Mechanization and expansion go hand in hand in the boom—this *is* the boom—and the fall in real wages, if indeed it does occur,[25] does not change the direction of this process.

On the other hand, in a period of depression, while the rise in real wages may increase the profitability of the more capital-using processes of production, lack of business confidence and excessive caution born of the losses of the downturn make desirable a more rapid turnover of capital. In most depressions, revival comes about because the marginal efficiency of capital is raised on all investment—short and long term—by the expectation of rising prices and/or rising consumer demand. On the whole, the substitution effect would seem to be an unreliable mechanism on which to pin the hope of recovery from depression.

Wage Policy as a Recovery Measure

Is wage policy an effective means to achieve recovery from depression? The answer would seem to be no, if manipulation of wage rates to the exclusion of other devices is intended. The causes of depression are too complex and the distortion of the cost-price structure too serious to render it possible for changes in one cost factor alone to produce recovery. In most situations, therefore, wage policy must be combined with other measures if any substantial progress is to be achieved in raising the level of income, production, and employment.

The question still remains, however, what form such action in the field of wage policy should take, even if it is only a partial solution. Are general wage reductions desirable in depression, or should wages actually be raised to increase consumer purchasing power? The first question is not entirely academic. Should a severe depression of the 1933 variety recur in the future, even strong union organization probably could not prevent some wage reductions. Moreover, the effect of a wage reduction may, to some extent, be duplicated in less obvious forms, such as by increasing prices relative to wages, or by a wage subsidy. Finally, it should be recognized that actual wage rates fluctuate more than published wage rates, since in periods of depression unions attempt to maintain the established rate in collective agreements, even though they may sanction individual bargains below it by union members.

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[24] This technique is used, for example, by the International Harvester Company. See TNEC Monograph No. 5, *Industrial Wage Rates, Labor Costs and Price Policies*, p. xxv.

[25] Hayek's theory of the cycle rests on the assumption that real wage rates tend to fall in the upswing and rise in the downswing. Statistical investigation suggests, however, that when money wages are rising in the upswing, real wages generally rise also. See L. Tarshis, "Changes in Real and Money Wages," *Economic Journal* (March 1939), p. 150.

Wage Reductions in Depression

Most theorists agree that it is the fluctuation in investment which is responsible for the oscillation in production and employment which we call the business cycle. Movements in investment expenditure usually lead movements in consumption and in general business activity. For example, the recovery of 1921 began with an increase in investment. Gross investment rose by 1.8 billions from 1921 to 1922, while consumption expenditures were still falling.[26] In the recovery of the thirties, investment started up first, rising by .7 billions from 1932 to 1933, while consumption was still falling. In the downturn of 1929, there is some disagreement as to the relative movements of consumption and investment in point of time,[27] but it is established that investment fell sharply from 1929 to 1930, while consumption fell only by a small amount.[28]

Thus, if it is possible to secure a revival of investment in a depressed period, the way will be paved for a rise in income and employment. Can this result be achieved through wage reductions? The volume of new investment is determined by the relation between the rate of interest and the marginal efficiency of capital.[29] Any influence which tends to lower the rate of interest or to raise the marginal efficiency of capital will increase the amount of investment. As we have seen in the previous chapter, a reduction in the level of wages may reduce the rate of interest by diminishing the need for cash. However, this particular reaction is of doubtful efficacy in depression since the rate of interest is likely to be low anyhow. Moreover, in severe depression, the marginal efficiency of capital may fall to a level even below the minimum to which interest rates can be reduced, so that wage cuts will have no effect on the margin between the marginal efficiency of capital and the interest rate. The intermediate costs of bringing borrower and lender together, and the allowance for risk, especially for moral risk, which the lender requires over and above the pure rate of interest may make it impossible to reduce interest rates below a certain minimum figure.[30]

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[26] A. Hansen, *Fiscal Policy and Business Cycles* (New York, W. W. Norton and Company, 1941), p. 49.

[27] F. C. Mills puts 1928 as the peak for practically all construction, and 1927 as the peak for factory and commercial buildings, in *Economic Tendencies in the United States* (New York, National Bureau of Economic Research, 1932), pp. 265–267. J. M. Clark, on the other hand, observing the movement of durable goods, finds that the decrease in consumption preceded that of other industries, *Strategic Factors in Business Cycles* (New York, National Bureau of Economic Research, 1935), p. 113. The conflicting evidence is compared in J. Estey, *Business Cycles* (New York, Prentice-Hall, 1941), pp. 333–334.

[28] J. Estey, *Business Cycles* (New York, Prentice-Hall, 1941), pp. 333–334.

[29] The marginal efficiency of capital is defined as the relation between the prospective yield of a capital asset and its supply price. J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 135.

If wage reductions could increase employment and investment only through the medium of the interest rate, there would be little to recommend them as a recovery measure since the same effect upon interest rates could be produced with much less friction simply by increasing the quantity of money while wage rates remain stable. But there are other ways in which wage reductions may contribute to recovery. The marginal efficiency of capital is a measure of the anticipated profit rate on new investment, and this rate will be determined by the margin between anticipated costs and prices. At some juncture, a substantial wage reduction, made with finality, may be interpreted by management as a "sign to go ahead" on the theory that the bottom has now been reached and that henceforth the movement of both wages and prices will be upward. It is questionable, however, whether wage reduction can be accomplished with such finality in a free labor market where wage policy is determined by collective bargaining between many unions and individual employers.

In Australia in 1931, wage levels were reduced 10 per cent by order of the Commonwealth Arbitration Board,[31] a reduction which is generally credited with having contributed to Australia's recovery from the depression.[32] But in the United States, the typical pattern has been one of slow piecemeal reduction, in which each cut suggests the imminence of another. Such a continuous downward movement in wages may raise a substantial impediment to recovery; for the effect of an expectation that wages are going to decline, say, by 2 per cent in the coming year will be roughly equivalent to the effect of a rise of 2 per cent in the amount of interest payable for the same period.[33] As a consequence, businessmen are encouraged to postpone commitments until the deflationary spiral has run its course.

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[30] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 208.

[31] About 400,000 workers, roughly 20 per cent of the workers of Australia, had their real wages reduced 10 per cent by the Commonwealth Arbitration Board. G. Anderson, "Wage Reductions in Australia," *Economic Record* (May 1931), p. 118. Wages Boards in Victoria and Tasmania followed the lead of the Commonwealth Board. See W. R. Maclaurin, "Compulsory Arbitration in Australia," *American Economic Review*, **28**:73 (1938).

[32] W. R. Maclaurin, *Economic Planning in Australia* (London, P. S. King and Son, 1937), p. 249.

Since a reduction in wage rates will reduce the cost of new equipment as well as the cost of operating it, it might be thought that the anticipated profit margin would thereby be raised. This would probably be the case if the reduction in wages could be confined to the capital goods industries. But when the wage reduction is general, it not only reduces costs, but also demand, and therefore, *ceteris paribus,* there is no reason why the expected profit rate should be higher in the new position than in the old.

As a matter of fact, however, it is quite possible that wage reductions will actually aggravate the depression rather than contribute to recovery; for the decline in wages and prices may deepen business pessimism and increase the number of bankruptcies and business failures. To many hard pressed companies on the verge of bankruptcy, reduction in indebtedness may seem more important than the expansion of plant and production; therefore any savings achieved through a reduction in the wages bill may simply be used to pay off indebtedness to banks and thus be lost to general circulation. This possibility is of crucial importance in understanding the repercussion of wage reductions upon employment; for since the *immediate* effect of a wage cut is a decline in the demand for consumers goods, expenditures by business for capital goods, inventory accumulation, or expansion of production must increase by a compensating amount to prevent a gap in the chain of income payments. Because employers in a depression are typically in a cautious mood, it seems probable that the volume of business spending will not ordinarily revive quickly enough with the result that the wage reduction will produce a net contraction in effective demand.

The ideal procedure would be to make adjustments in wage rates at the first sign of recession, before businessmen had developed a strong feeling of caution and when reductions in cost would be more likely to produce a prompt increase in spending by business concerns. A wage reduction of modest propositions at such times might also raise the marginal propensity to consume by reducing savings. Expenditures for durable consumers goods compete with savings; if automobiles, refrigerators, and other durable consumers goods have risen too high in price during the course of the boom, consumers will postpone purchases until these articles come down to what they believe to be a reasonable level. A moderate wage cut at such time may make possible a sufficient price reduction to induce potential purchasers to use savings for these acquisitions. Of course, the danger is that the fall in income will cause many low-income groups to postpone purchases of expensive durable goods even farther into the future. The best results in so far as stimulating recovery is concerned would be achieved by restricting the wage reduction to the durable goods industries, thus limiting the deflationary effect upon general demand. Just as a wage cut would be most effective in stimulating investment if it were limited to the capital goods industries, so a wage reduction would prove most effective in inducing "investment" in consumers durable goods if it could be restricted to the latter group of industries.

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[33] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 265.

On the whole, *general* wage reductions do not hold forth much promise as a recovery measure. The key factor which must be reached is the rate of new investment, and wage reductions, by and large, are a clumsy means of stimulating this variable. Revival of investment in a depression period is rendered difficult by the large amount of excess capacity and surplus stocks which exist at such times. Until these are eliminated—by obsolescence or gradual depletion—it is difficult for a purely internal change, such as a wage reduction, to start the economic system moving again. A steel manufacturer is not likely to build a new plant at the bottom of the depression merely because wage rates have been reduced. Lower wage rates and lower interest rates may make conditions more conducive to recovery when a favorable external factor—such as a good crop, or a new invention—impinges upon the economy and raises profit expectations. But of themselves, these measures are relatively ineffective to promote recovery.

For wage reductions to function as an effective recovery measure, two prime difficulties must be overcome: (1) the tendency of a wage cut to produce anticipations of a further fall in wages and prices; (2) the tendency of a wage reduction to contract effective demand. Mention has already been made of the first difficulty, and it is not easy to see how, in the absence of government intervention, this obstacle can be entirely overcome. Perhaps if collective bargaining proceeds more and more on an industry-wide basis, ultimately associations of employers might be able to confer with the two major labor federations and together agree to limit wage reductions in the key industries to a specific amount. It must be admitted, however, that at least in the near future, it seems doubtful whether most union leaders could make such an agreement and still retain the allegiance of their membership. Moreover, the divergent interests of employed and unemployed union members may come into sharp conflict over the question of the proper wage policy. For example, in the downturn of 1937, many unemployed members of the American Federation of Hosiery Workers were willing to accept a 6 per cent wage reduction proposed by employers, but the employed union members refused to do so.[34]

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[34] *How Collective Bargaining Works* (New York, The Twentieth Century Fund, 1942), p. 501.

The second difficulty, however, can be met in a number of ways. Collective bargaining agreements might be phrased in terms of income rather than wage rates. During the depression, for example, in negotiations for a reduction of railroad wages, the railway unions attempted unsuccessfully to bargain for a partial maintenance of income.[35] Contracts based on maintenance of income rather than wage rates would guarantee workers that their standard of living would not be impaired, and at the same time would afford employers the benefit of reduced costs. Thus, during the depression of 1933, it would have been to the advantage of the building trades to have agreed to a reduction in wage rates in return for a guarantee by the employer of a sufficient number of weeks of work to maintain, or to increase, their annual income.

Another more general plan by which costs can be reduced while demand is maintained is by combining wage reductions with an effective program of public works financed through a budgetary deficit. The public works program, however, must not be managed in such a way as to nullify the purpose of the wage reduction—which is to achieve a reduction in costs. In 1933, wages paid on public projects exceeded rates on private work with the result that labor costs in construction were maintained at an arbitrarily high level. A third possibility would be to grant wage subsidies to private industry. The effect of such subsidies is to reduce wage costs by the amount of the subsidy and at the same time to increase effective demand by the extent to which the subsidies are financed through borrowing.

Wage Increases in Depression

The argument for wage increases as a recovery measure embodies the same analytical approach as that which has been used to attack the alleged benefits flowing from general wage reductions. The crux of the agrument in both cases is that we must look to the economy as a whole and not to the individual firm in order to appraise the efficacy of the wage change in promoting employment. Thus, an increase in wage rates in one firm will not ordinarily provide a basis for more jobs, since the rise in wage rates simply increases costs without measurably altering the demand for the output of this particular employer. But when wage rates are increased generally throughout the economy, the effect of these increased disbursements upon general consumer demand cannot be ignored. If there are no leakages, and if the banking system expands the quantity of money sufficiently to maintain a higher level of prices without a rise in interest rates, then the rise in wage cost need not reduce employment and may even increase it if the rise in wages and prices is taken as an indication of the end of the deflationary downturn.

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[35] See S. H. Slichter, "The Adjustment to Instability," *American Economic Review*, **26**:207 (1936, supplement).

Ordinarily an increase in employment in the short period would be expected to accompany a fall, rather than a rise, in real wages, because with fixed equipment an increase in output can be produced only at rising marginal costs. However, in a depression period, the existence of unused plant and equipment and the widespread operation of industry at less than optimum capacity may make possible a rise in money wages and employment with a less than proportionate increase in prices. This consideration was one of the motivating factors in the NRA program of 1933 which sought to achieve recovery by expanding wage earners' buying power. The NRA recovery program achieved a small increase in real wages from June 1933 to June 1935; the index of weekly industrial earnings rose from 70 to 80 while the cost of living rose from 96 to 107.5. Real wages thus rose from 72.9 to 74.3.[36]

To some extent, the same difficulties are encountered in increasing employment through wage increases as are met in the attempt to stimulate employment through wage reductions. Whereas in the latter, debt repayment by businessmen will produce a gap in the circular income flow, so, in the former case, the utilization of larger wage receipts by employees to reduce their indebtedness will diminish the effectiveness of the wage increase in promoting full employment. There is, however, a more fundamental difficulty inherent in a program which seeks to promote recovery through wage advances. This is the fact that wage increases tend to affect short-term, rather than long-term expectations, with the consequence that any favorable reaction upon investment incentives is likely to be reflected in increased inventory accumulation[37] rather than in the purchase of fixed plant and equipment. Consequently, a recovery movement which is generated by increased wages is likely to be extremely susceptible to speculative influences. One reason that the speculative collapse of 1937 produced such a sharp curtailment in production and employment is the fact that long-term confidence had remained weak throughout the abortive boom, as evidenced by the tendency of businessmen to confine their buying of industrial equipment to replacement demands.[38]

On the whole, relatively few economic theorists favor wage increases as a device to achieve recovery in depression. An exception is the school of underconsumptionists who see in depression the cumulative effect of oversaving; in their view, wage increases are essential to reach the prime cause of the collapse of business, namely the deficiency in consumer purchasing power. However, even granting their argument that it is desirable —and even necessary—to raise the propensity to consume during depression, this in itself is not enough to assure recovery. It is the propensity to *spend*, not the propensity to *consume*, that is the crucial factor in the cyclical process. If every increase in the propensity to consume were associated with a shift in the liquidity preference curve of employers and a decrease in expenditure on capital goods, it is clear that no stimulus to business recovery would be imparted by wage increases.

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[36] C. F. Roos, *NRA Economic Planning,* Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 444.

[37] This suggests the possibility that in a unionized economy cycles in inventory accumulation may become of increased importance, thus giving more substance to the purely monetary theory of the cycle advanced by R. G. Hawtrey. (See above, p. 394.)

[38] S. H. Slichter, "The Downturn of 1937," *Review of Economic Statistics,* **20**:106 (1938).

A prime source of error in discussion of the business cycle is excessive concentration upon one factor in the cyclical process. Consumer expenditure is important, but so is business spending, and any policy which gives sole attention to the one without sufficient regard to the other is likely to fail in its objective. Those who assert that employment will be increased by a rise in wage rates are in effect assuming that the consumption function is more sensitive to wage changes than the investment function is to cost changes. There is certainly no necessity that this be so. Indeed, in times of depression, it is possible that investment will be the quicker to react to cost changes; for consumption is already maintained by government subsidization, dissaving, and similar means. With widespread unemployment prevalent, the fortunate employed workers who find extra dollars in their pay envelopes may well consider it prudent to lay these aside in case they, too, are dismissed. On the other hand, employers feel the increase in costs immediately, and with profits low or non-existent it is questionable whether they will continue to operate long at an uneconomic output. To place recovery on a substantial basis, it is investment in fixed plant and equipment which must be stimulated. Wage increases may, of course, induce management to invest depreciation allowances in equipment which is more labor saving, but it is doubtful whether, during a period when long-term expectations are at a low level, higher wages produce any substantial expansion in investment based on the interest of management to displace labor.

While this discussion suggests there is little to recommend a policy of raising wages in depression, the case for wage rigidity is much stronger. In view of the fact that there is no certainty that employment will be any larger if wages are reduced, there is much to be said for maintaining wages as they are, particularly in view of the fact that prices in many sectors of the economy are sticky, so that wage reductions might not be accompanied by any adjustment in price. Moreover, it is important to maintain consumption because experience has demonstrated that new investment is not likely to revive until inventories have been used up, and this process of depletion takes time. In the three years, 1933–1935, it is estimated that business inventories declined nearly four billion dollars[39] (measured in 1929 prices). This represents a considerable disinvestment and indicates the large amount of slack which needs to be taken up before investment is likely to resume. During the intervening period of adjustment, maintenance of wages is desirable to prevent cumulative contraction.

Summary

This discussion serves to indicate that no unqualified conclusions can be drawn regarding the type of wage policy which should be adopted in depression. In a mild depression, a reduction in wage rates, if accompanied by a fall in the prices of producers goods, may shorten the period of adjustment, particularly if long-term expectations have remained at a relatively high level despite the temporary business relapse. If, however, the depression is of the 1930–1933 variety, where the power of long-run dynamic forces is low and the demand for capital goods is highly inelastic, then a reduction in wage rates may only further contract purchasing power without contributing to the recovery of employment and production.[40]

Thus the efficacy of wage policy as a recovery measure depends upon the nature of the particular depression in which its use is sought. That the same wage policy cannot uniformly be applied in every business downturn is not surprising; for each depression is in an important sense a unique event. In many depressions, wage alterations are simply not adapted to reach the fundamental source of maladjustment. In 1929, for example, wage reductions could not halt the deflation due to bank failures, nor could they raise the depressed level of long-term expectations. On the other hand, in 1920–21, wage reductions did contribute to recovery because the high wage rates left over from the war inflation were *themselves* a cause of the ensuing depression.

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[39] S. Kuznets, *National Income and Capital Formation, 1919–1935* (New York, National Bureau of Economic Research, 1937), p. 40.

[40] E. Lederer, "Industrial Fluctuations and Wage Policy," *International Labour Review*, **39**:5 (1939).

17

Unions and the Business Cycle

Systematic analysis of the effect of union organization upon the business cycle is rendered difficult by the diversity of policies which unionism encompasses. Not only is there great variation in the nature of union wage policies, but furthermore wage policy is only one aspect of union strategy. Non-wage policies, though often ignored in theoretical discussion, may have profound repercussions upon the contour of the cycle. For example, union policies restricting the introduction of machinery can affect the over-all rate of investment and thus alter the amplitude of the boom.

The following discussion, although primarily concerned with the relation of wage policy to the business cycle, will also examine the consequences of other aspects of union policy. We shall consider a number of avenues by which union organization may affect the business cycle: by changes in wage rates; by variations in efficiency; by work sharing; and by control of technological change.

Wage Policy

Union wage policies range all the way from the price consciousness of the American Federation of Hosiery Workers, who accepted a 40 per cent reduction in wage rates in the fall of 1931,[1] to the complete lack of regard for market conditions displayed by the United Mine Workers, who, despite declining employment, have not taken a single wage cut in the anthracite industry since the award of the Anthracite Strike Commission in 1903. Consequently, it is not easy to think of union wage policy in the aggregate as a meaningful economic datum. As a matter of fact, it is misleading even to use the term "union wage policy" in the sense of a clearly formulated program of action regarding the magnitude, nature, and scope of future wage movements. Some unions, it is true, have plans to stabilize wage rates, labor costs, or piece rates in the industry.[2] Other unions, because of the age and composition of their membership, may adopt varying views as to whether union objective should be the highest possible wage rates, or the largest wage bill, or the highest wage bill plus unemployment benefits.[3] But it is unlikely that such choice of objective will be explicit or the result of conscious planning; more often it is the result of trial and error, and of the conflicting interests of pressure groups within the union membership. "Union wage policy" is really a fiction adopted by the economist for the purpose of systematic analysis. It is an analytical tool rather than an observed fact of industrial relations. To the average union leader, immersed in the detail, conflict, and give-and-take of practical wage negotiations, "wage policy" is an empty phrase. Collective bargaining becomes collective arguing, and union demands and decisions are openly opportunistic—the union objective being simply to obtain in any given situation the best possible terms for the union.

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[1] S. H. Slichter, "The Changing Character of American Industrial Relations," *American Economic Review,* **28**:134 (1938, supplement), note 28.

[2] See S. Barkin, "Industrial Union Wage Policies," *Plan Age,* **6**:1–14 (1940).

Effect of Unions on Cyclical Wage Lag

The precise effect which union wage pressure may be expected to have upon the course of wage rates during the cycle is subject to controversy. That union wage rates lag behind non-union rates in the downswing is fairly evident. For example, union scales in the building industry rose 4.2 per cent in 1930 and continued to rise slightly into 1931, at a time when the deflation in general wages was well advanced. Union rates in general continued to rise well after the downturns of both 1920 and 1929.[4] The relationship in the upswing, however, is by no means clear. Statistical data on this relationship are more misleading than helpful. The difficulty has been that there are no reliable long-term series showing union and non-union wage rates or hourly earnings in the *same* industry under approximately similar conditions. Until the last decade union organization has been confined to a relatively few industries. Consequently, when the wage movements in these particular industries are compared with non-union industries or with the general wage level, any difference which appears is more likely to be caused by the peculiarities of the unionized industry than by the fact that it is unionized.

This difficulty vitiates much of the usefulness of the Douglas series,[5] which purports to give a comparative picture of union and non-union rates from 1890 to 1926, the longest period covered by any such comparative statistics. The series consists of average hourly earnings and index numbers of money earnings and real earnings in 14 manufacturing industries, 8 of which are classified as non-union and 6 as union. The non-union sample, however, is heavily weighted with such highly competitive industries as cotton textiles, boots and shoes, clothing and hosiery. These industries are among the first to be compelled to cut prices when business declines, and therefore they are usually the first to seek wage reductions. It is not surprising therefore to find that the non-union sample tended to lead the union sample in the downswing. The results in the upswing were not clear, but in view of the shortcomings of the series, it can be of little value in affording a statistical basis for our theoretical analysis of the business cycle.

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[3] See J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), pp. 32 ff.

[4] S. H. Slichter, "The Changing Character of American Industrial Relations," *American Economic Review*, **26**:134 (1938, supplement). This lag may, of course, merely reflect a peculiarity of conditions in the construction industry (which follows its own pattern of oscillation, apart from the business cycle), rather than the influence of unionism.

[5] Paul Douglas, *Real Wages in the United States, 1890–1926* (New York, Houghton Mifflin Company, 1930), chap. 6. Additional shortcomings of the series are pointed out in A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), chap. 6.

In estimating the significance of union organization upon the pattern of wage movements, it is essential to recognize that collective bargaining is only one of a number of factors which affect the timing and the size of wage adjustments. For example, reductions in the 1929–33 depression typically occurred first in those industries where labor costs were relatively more important and where competition in the product market forced price declines as buyer resistance developed.[6] The latter circumstance may be of such compelling influence that it overshadows any tendency toward wage rigidity imparted by union organization. Indeed, one study of the 1929 downturn indicates that the lag in hourly wage rates behind the cyclical downward turning point in employment was actually greatest in industries which during the period were not unionized![7] This does not, of course, mean that unionism increased the downward flexibility of wages—it simply indicates that in those industries which happened to be unionized other factors were also operating which tended to offset the rigidity of wage rates normally produced by union organization.

Wage levels and the timing of wage changes are also a function of the size and location of plant, of the personalities of union leaders and management officials, and of a myriad other factors which cannot be reduced to a simple formula. Moreover, since most statistics of wages are averages, the results are subject to many statistical pitfalls—shifts in the relative number of high and low paid workers, variation in number of hours worked, and so forth. Consequently, even if there were series available which purported to trace the movement of union and non-union wage rates down to date, much of our analysis would have to depend, nonetheless, upon *a priori* deductions.

How will the movement of wage rates differ in a highly unionized economy from one in which there are no unions? With regard to the secular movement of wage rates, there is evidence that real earnings in highly organized industries have increased to a greater extent than have those in the less organized industries.[8] This suggests that union bargaining power enables money wages to gain on prices over the course of the cycle. It is not clear, however, whether this gain is achieved through rigidity of money wages in depression[9] while prices are falling, or through a reduction of the lag of wages behind prices in the upswing. On the whole, it seems probably that union wage contracts, running for one or two years will tend to increase the lag of wages behind prices in both upswing and downswing of the cycle.

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[6] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), pp. 145–148.

[7] J. Shister, "Note on Cyclical Wage Rigidity," *American Economic Review*, **34**:111 (1944).

Whether actual wage movements in the future will evidence these characteristics will depend in part upon the flexibility of prices in the postwar economy and in part upon the nature of unionism itself. Union wage rates during a period of vigorous organizing activity tend to lead nonunion wage rates (though the 1937 experience was an exception). Hence, if for the next few decades organizing activity and militancy are prominent characteristics of unionism, the lag of wages behind prices may be reduced in the upswing of the cycle. Another factor which will affect the behavior of union wage rates is the duration and degree of schism in the ranks of organized labor. Unions in a duopolistic position must concentrate their energies upon that part of their activity which consists of "selling" high wages and "buying" members. Consequently duopoly in the labor market probably portends greater pressure for higher wages than monopoly.

Where rival unions are seeking to attract members from one another, union power and prestige may hinge upon securing a wage increase one-half a cent greater than that obtained by a rival group. Union leaders bargaining in such circumstances are less reluctant to call a strike and more demanding in their wage negotiations. A case in point is the 1945–46 wage negotiations in the meat packing industry. The Amalgamated Meat Cutters and Butcher Workmen, AFL, were ready to settle peaceably with the meat packers for a modest wage increase. The rival United Packinghouse Workers of America, CIO, ridiculed the submissiveness of the AFL union and demanded a 30 per cent increase. As the negotiations proceeded, the AFL Meat Cutters derided the strategy of the CIO and challenged its inflated promises and claims. But when the CIO group brought its own wage strategy to the brink of a strike, the AFL union declared for a solid front and called its members out on strike.[10] The coal strike of the spring of 1946 was similarly a manifestation of the struggle for power and prestige by rival union leaders. The strike occurred after the employers had offered the miners an increase of 18½ cents an hour. The strike was apparently called to demonstrate that John L. Lewis, president of the United Mine Workers, could obtain for his members a little bit more than other leaders had secured for their membership in related industries, which he did.

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[8] A. M. Ross, *Trade Union Wage Policy* (Berkeley, University of California Press, 1948), p. 117. Mr. Ross's data covers the years 1933–45, a period too short to permit of any generalizations regarding the cyclical behavior of union versus non-union wage rates.

[9] In 1938, as a result of union organization, wages were not reduced by the leading industries for the first time in the history of any depression in the United States. The U. S. Department of Labor reports that only 791 out of 26,000 manufacturing establishments covered in a survey made any reductions between January and July 1938 when most of the reductions took place. See S. Barkin, "Industrial Union Wage Policies," *Plan Age*, **6**:10 (1940).

Wage Changes and the Inducement to Invest

In Chapter 15 we examined the effect of a general change in wage rates from the point of view of the economy as a whole. We there saw that if certain critical variables were held constant, the change in wage rates would simply be reflected in a corresponding change in the level of costs and prices, but that employment and investment would remain unaltered. Our postulated condition assumed that the marginal efficiency of capital, the rate of interest, and the marginal propensity to consume remained constant. The purpose of this analysis under such artificial hypotheses was to demonstrate that if wage changes do react, favorably or unfavorably, upon employment, the reaction is ordinarily brought about through the effect of the wage change upon one or more of these three critical determinants. In practice, of course, these variables will not remain constant, and therefore a change in wages will alter the volume of employment. In this chapter we shall examine various possible repercussions which a wage change may have upon the rate of interest, the marginal propensity to consume, and the marginal efficiency of capital.

Thus far in this book the marginal efficiency of capital has usually been loosely referred to as the anticipated rate of profit on new investment. In more precise terms, it may be defined as the relation between the prospective yield of a capital asset and its supply price.[11] It is a fraction, the numerator of which denotes the current expectation of future returns of an investment and the denominator of which represents the current replacement cost or supply price of the investment. It is the *prospective* yield that is important; hence, it is through this variable that anticipations as to the future influence present production plans.

How will union wage adjustments over the cycle affect this variable?

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[10] B. M. Selekman, "Wanted: Mature Labor Leaders," *Harvard Business Review*, **24**:412–413 (1946).

[11] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 135.

Assume that union wage increases, occurring during an upswing, begin in the steel industry and set a pattern for general wage adjustments throughout industry. Since the first impact is upon costs (thus increasing the denominator of the fraction representing the marginal efficiency of capital), it would seem that the inducement to invest would be favorably stimulated only if the expectation of future yields also increases. What is the most probable effect of union wage increases upon anticipations as to the future profit rate upon new investment?

1. If the rise in wage rates tends to produce some initial unemployment in marginal firms, the effect upon businessmen's anticipations may be unfavorable, but on the whole it is likely that this repercussion will be obscured by the general underlying forces producing an upturn in business and employment.

2. The expectation of future returns from a present investment may increase if the rise in wage rates is viewed as presaging an inflationary upswing. Inventory accumulation will be encouraged as a hedge against future higher prices and this, in turn, may react favorably upon the volume of investment in capital goods.

3. If wage rates are expected to continue rising, entrepreneurs will anticipate that equipment will also increase in price because of the increased cost of construction. This means that capital equipment will be acquired at a higher level of costs. Consequently, broad upward wage adjustments will be likely to set in motion a general movement to replace worn-out machinery before prices of capital goods rise further.

4. The rise in wage rates and prices will decrease the real burden of the national debt. In other words, a smaller physical volume of goods and services will now suffice to meet the annual interest charges required to service the national debt. This possibility is considered of importance by some writers,[12] though it would seem that businessmen are more likely to be cheered by a reduction in the monetary size of the national deficit than by a reduction in its real burden. However, as applied to private debts, taxes, and other relatively fixed obligations, the rise in prices will have a favorable effect and may raise the general tenor of business confidence.

5. On the other hand, the rise of wage costs may have a depressing effect upon investment in capital goods. This would be particularly so if labor in the capital goods industries were more highly organized than in the economy at large, and if the wage increase were larger in the former than in the latter. Even if the rise in costs is offset by a rise in prices, new investment may be discouraged because the higher level of costs increases

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[12] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 264.

the risks involved in starting new businesses. Much of the new investment and employment in a boom period is furnished by new enterprises. Frequently these are started on small capitals—particularly in retailing and light manufacturing. High union rates facing such companies upon formation increase the amount of capital required to enter the industry and may thus discourage some prospective entrepreneurs from entering. A further discouragement to new investment and expansion is afforded by the prospect that aggressive union wage policy will prevent the plowing back of profits and thus limit the expansion of the business.

Cyclical Wage Adjustments and the Rate of Interest

Union wage changes during the cycle may affect the rate of interest in two ways. In the first place, a change in the volume of wage disbursements will alter the need for cash and thus affect entrepreneurial borrowing for working capital purposes. In the second place, broad union wage adjustments will affect the tenor of business confidence and thus affect the schedule of liquidity preference[13] of the community.

Some economists take the view that the only way wage changes can affect the volume of employment is through the effect of the wage change upon the need for cash and through this upon the interest rate. For example, if wages and prices rise, businessmen will be compelled to increase their working capital to meet the larger cash requirements for wages. With a given supply of money and credit, the increased demand for funds will tend to raise the price for money which is the interest rate. A higher interest rate will make investment less attractive and therefore industrial production and employment will be curtailed. Conversely, if wages and prices fall, the need for cash will be diminished, interest rates will tend to fall, and investment and employment will be stimulated. However, if interest rates have already reached such a low level that they cannot be further reduced, but the marginal efficiency of capital is still below the interest rate, then wage reductions will fail to stimulate investment and employment.

Most discussions of the effect of wage reductions on the rate of interest proceed on the implied premise that the instantaneous elasticity of demand for labor is less than unity. Thus the leading exponent of this view, in discussing the effect of a reduction in wage rates, states: "The reduction in the wages-bill, accompanied by some reduction in prices and in money-incomes generally will diminish the need for cash for income and business purposes."[14] But suppose the relative reduction in wage rates occurs at a time when demand for labor is elastic. It is arguable that this may be the situation even in periods of depression.[15] In this event, employment would increase temporarily at least, and so would the wage bill. The reduction in prices would decrease the need for cash, but the rise in the wage bill would increase the need for working capital and so exert an influence on the interest rate in the opposite direction. Assuming that the other determinants of equilibrium remain constant, if the repercussions on the interest rate are exactly compensating, the interest rate would not change at all from its original position before the wage reduction and therefore it would seem that the high level of employment could not be permanently maintained.

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[13] This concept is defined and explained in detail below, p. 420.

[14] J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936), p. 263.

Wage adjustments may also affect the rate of interest by altering the schedule of liquidity preferences for the community. Liquidity preference is simply the desire to hold money in the form of cash. The interest rate equilibrates the quantity of money and the schedule of liquidity preference for the community. The liquidity preference schedule may be defined as the demand curve for liquid cash balances in terms of the interest rate. It measures along the x axis the amount of cash that people wish to hold at various interest rates which are measured along the y axis. A shifting to the right of the liquidity preference curve means that at given interest rates, people wish to hold larger cash balances. When such a shift occurs, and the amount of money remains constant, the rate of interest will rise. This reaction comes about because people will sell securities and other non-liquid assets in order to acquire cash balances to hold in their stead. The effect of their action will be to lower the price of securities which is equivalent to a rise in the market rate of interest.

Collective bargaining, by taking the control of wages out of the employer's power, probably makes for greater uncertainty as to the future of business prospects. It may therefore induce a more cautious policy with regard to carrying cash balances adequate to meet unforeseen eventualities. (However, union contracts running for several years and fixing the level of wage rates during that period would tend to offset this.) Moreover, union wage demands accompanied by widespread strikes tend to diminish business confidence and thus may increase the desire to hold cash. Consequently, union wage increases may have a more unfavorable effect upon the rate of interest than ordinary wage adjustments would have in a non-union economy.

Liquidity preference may also be expressed as a function of expected rates of profit, rather than of current rates of interest. In other words, measuring anticipated profit rates along the y axis and the amount of cash balances businessmen will wish to hold along the x axis, a curve can be derived indicating the relationship between these two variables. As the anticipated rate of profit declines, businessmen will increase the amount of their cash holdings, preferring to hold funds idle rather than to risk them in unremunerative investments. Given such a relationship, union wage demands which cut into current profits and diminish the prospect of future profits may reduce the incentive to invest and thereby increase management liquidity preference. Unless the quantity of money is expanded, this augmented demand for liquidity coupled with the increased need for cash for wage disbursements will raise the rate of interest and curtail employment. Thus, concerted union wage pressure produces a situation well described by one writer as a world in which there is a constant race between the banks, the creators of credit, and the business agents of trade unions, with the problem of underemployment solved only if the banks can maintain a constant lead.[16]

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[15] Professor Slichter suggests that the fact that plants are undermanned in depression is one factor making for an elastic demand for labor. S. H. Slichter, "The Adjustment to Instability," *American Economic Review*, **26**:205 (1936, supplement).

Wage Changes and Effective Demand

In the last decade, wages, previously considered primarily as a cost of production, have come to be viewed also as the predominant part of the income stream required to sustain the demand for the products of industry. Changes in wage rates can affect the level of effective demand in two ways:

1. By altering the total volume of money income which in each period is paid out to all income recipients, including wage earners.
2. By altering the proportion of an otherwise unchanged total income stream which accrues to wage earners.

The first avenue of variation depends upon the readiness of the banking system to expand or contract credit in response to changing needs for cash for wage disbursements. In the boom stage of the cycle, for example, wage demands are likely to be met by increased short-term borrowing from the banks to finance the increased payroll (increased because in prosperity the elasticity of demand for labor is likely to be smaller than unity), thus contributing to the inflationary forces. On the other hand, it is conceivable that a wage cut in depression under some circumstances would increase total effective demand. This would be so if the demand for labor had an elasticity greater than unity, and if entrepreneurs maintained their former rate of investment, financing the additional funds needed for wage payments by borrowing from the banks or by dishoarding.

The second repercussion of wage changes is affected by two conditions: the elasticity of demand for labor, and the elasticity of supply of particular pockets of labor throughout the economy. If the elasticity of demand for labor is less than unity, then by definition the total income of labor will be augmented when wage rates rise. This need not, however, coincide with an increase in total effective demand, since employers may restrict their own purchases of consumption goods or of capital goods by a corresponding amount. A change in the wages bill is likely to react more quickly on wage earners' expenditure than a change in profits will react on profit earners' expenditure.[17] Of course, even if the total money supply remains the same, the demand for goods and services may be increased because of a favorable change in the velocity of circulation.

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[16] J. Viner, "Mr. Keynes on the Causes of Unemployment," *Quarterly Journal of Economics*, **51**:149 (1936).

Nevertheless, the possibility that increased expenditures by labor may be offset by decreased expenditure on capital goods, leaving total expenditure unchanged holds an important lesson for cycle theory which is particularly pertinent in connection with examination of the underconsumption theory. It is not the propensity to *consume* which is important so much as the propensity to *spend.* If every increase in the demand for consumers goods is associated with an increase in liquidity preference on the part of potential investors, effective demand will in the end be no larger despite the rise in wage disbursements.

The proportion of national income which is received by labor will depend not only upon the elasticity of demand for labor, but also upon the elasticity of labor supply. Thus, suppose that the demand for labor has an elasticity greater than unity, so that employers would be willing to hire substantially larger amounts of labor at a lower wage rate *if it were available.* The availability of labor at a lower wage rate will be in part a function of labor mobility—that is, the rapidity with which labor can move from place to place to fill all the new job opportunities available at the lower wage rate. Thus with a high labor mobility, available jobs, under any given aggregate income outlay, would be promptly filled, thus raising the proportion of wage payments to total income payments.[18] Union preference for seniority, and restrictions on movements from trade to trade diminish labor mobility, and therefore reduce the tendency of wage reductions to augment consumption expenditures.

Unions and the Multiplier

Unions may affect the contour of the cycle by altering the proportion which wage income constitutes of total income. The effects of shifts in income from one economic group to another are not yet fully understood, but it is probable that a shift of income to wage earners at the expense of the fixed income and entrepreneurial class will increase the marginal propensity to consume of the community as a whole.

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[17] E. R. Walker, "Wages Policy and Business Cycle," *International Labour Review,* **38**:765 (1938).

[18] A. C. Pigou, *Lapses from Full Employment* (London, Macmillan and Company, 1945), p. 59.

The marginal propensity to consume, $\frac{\Delta C}{\Delta Y}$, may be defined as the relationship between an increment of income and the expenditure on consumption out of this increment. Thus, if the community were to spend every extra dollar of income it receives, the marginal propensity to consume would be equal to unity. This condition is not likely to be realized in any advanced capitalistic economy, although it may be true for the very low income groups. On the other hand, if part of the additional increment is saved and part spent, then the marginal propensity to consume will be less than one.

By the use of this concept, together with the related concept of the multiplier, it is possible to show what effect increments of investment will have upon total income. The multiplier—denoted K—tells us that when there is a sustained increment of aggregate investment (per period of time), income will increase by an amount which is K times the amount of the investment. The multiplier is related to the marginal propensity to consume, since the effectiveness of the increment of investment in raising income in each succeeding income period will depend upon the "leakages" in the form of savings at each turnover.[19]

An increase in the marginal propensity to consume increases the value of the multiplier. With a higher multiplier, a given increment of investment will yield a larger total increase in income, and thus make it easier to achieve full employment. But conversely, a given decrement of investment will produce a greater decline in total income. Consequently, to the extent that unions are successful in raising the marginal propensity to consume of the community, they thereby increase the potential instability of the system and subject it to the risk of greater oscillation in income and employment.

MITIGATION OR AGGRAVATION OF THE CYCLE

There are further ways in which union wage policy[20] may affect the cyclical fluctuation of the economic system.

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[19] The relation between the two concepts may be indicated by the formula:

$$K \quad \frac{1}{1-\frac{\Delta C}{\Delta Y}}$$

[20] Cyclical instability may also be affected by non-wage union policies such as preference for seniority in layoffs. Seniority plans tie a man closer to his job. They therefore reduce the mobility of labor. As a consequence, an increasing demand for labor which is unevenly distributed over the economy is more likely to be reflected in higher wages, since the seniority provisions will induce men to remain at their jobs rather than to seek positions elsewhere at a higher wage but less secure tenure. On the one hand, this circumstance may add to the inflationary nature of the upswing and thus aggravate the problem of eventual adjustment. On the other hand, it is conceivable that the earlier reaction of money wages will check the expansion by reducing profits and raising the interest rate, thus shortening the length of the boom.

1. In the first place union organization tends to accentuate the tendency toward uniformity and simultaneity of wage adjustments within given industries and within the economy as a whole. While in many industries sympathetic intraindustry wage movements deriving from oligopolistic price policies antedate union organization, union pressure has tended to spread and to make explicit uniformity as a cardinal basis of wage policy. There is now, in a sense, double pressure for uniformity of wages—from the competitors of the individual employer, and from his employees themselves. Industrial unions, in particular, are interested in maintaining a stable and uniform wage structure; for price cutting based upon wage cutting by other employers in an industry endangers the union position. Union efforts to secure and maintain uniformity of wage levels within an industry tend to give rise either to simultaneous adjustments of wage levels by all firms within an industry acting as a group, or to successive wage increases which give the appearance of a leader-follower relation. Already, in many of our most important industries, this pattern is in evidence. Both with regard to the timing and size of wage increases, industry considerations tend to dominate the individual employer. Companies find it expedient to make wage increases of about the same amount as other firms in the industry for to grant less would create difficulties with the union, while to grant more might antagonize or embarrass competitors.[21]

Furthermore, union organization has tended to accelerate the spread of wage adjustments from one industry to other industries. Thus the 18½ cent an hour adjustment in the automobile industry in 1946 was followed by similar adjustments in a wide variety of industries. Whereas in a non-unionized economy wage adjustments are likely to spread gradually, their size varying—depending upon local conditions, the profitability of the particular firm, and similar factors—in a unionized economy the wage adjustment tends to be duplicated by other industries as unions incorporate the same sized demand in their own wage negotiations. For example, from August 1945 to May 1946, 60 per cent of workers receiving wage adjustments in metal working industries (excluding basic iron and steel and shipbuilding) received wage increases of 18 cents or more per hour.[22]

The result of this trend toward simultaneity and uniformity of wage adjustments in industry and economy is that a few key wage bargains influence the whole wage structure of the American economy. The number of such key bargains probably is not more than between 25 and 50, and would include agreements reached in basic iron and steel, railroads, bituminous coal, meat packing, rubber, and automobiles.[23] When these strategic rates have been determined, then for all practical purposes the wage level has been set for the economy as a whole. The emergence of this pattern means that the sensitivity of the economic system to inflationary forces will be accentuated. An additional impetus to price increases will be afforded because wage increases appropriate to profitable firms in some industries will be applied through union pressure to less profitable firms in other sectors of the economy. The latter may be unable to meet such wage demands without making compensatory price adjustments.

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[21] G. F. Bloom, "Wage Policies and Trends in the War Boom," *American Economic Review*, **33**:896 (1943).

[22] *Monthly Labor Review*, **63**:342–345 (1946).

2. A second way in which union wage policy can affect the cyclical behavior of the economic system is by reducing the tendency toward dispersion of the wage structure in depression periods. Studies of the business cycle have revealed variations in the propensity to consume which bear no relation to the general level of labor income and which can only be described by reference to variation in inequality of income distribution. In past depressions when union organization was less widespread, there is evidence that workers in the lowest hourly wage groups suffered larger reductions in income than the higher paid workers whose strategic bargaining power was greater. Between 1929 and 1931, there was some tendency for the lower quartile of men's earnings to fall by a greater percentage than the upper quartile. In the absence of any showing that the lower quartile of wage earners in each occupation had a higher rate of employment during the depression, a larger reduction in average hourly earnings in the lowest quartile tended to reduce disposable income most where the propensity to consume could be assumed to be highest.[24]

This tendency, however, will be counteracted by the growth of industrial unionism which has spread the bargaining power of higher paid strategically placed groups over those workers less favorably situated. The automobile industry affords an interesting example of the extent to which industrial unionism has improved the bargaining position and income of the lowest paid workers. In that industry, from 1937 to 1942, the rate differential between an unskilled sweeper and a highly skilled toolmaker was reduced from about 120 per cent to about 40 per cent.[25] This improvement in the bargaining position of poorly paid workers should counteract the tendency evident in the past for this group to receive the sharpest reductions in incomes. The degree of deflation in depression would thereby be minimized.

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[23] J. T. Dunlop, *American Wage Determination: The Trend and Its Significance*, Economic Institute on Wage Determination (Washington, Chamber of Commerce of United States, 1947), p. 42.

[24] J. T. Dunlop, "Cyclical Variations in Wage Structure," *Review of Economic Statistics*, **21**:32 (1939).

[25] A. M. Ross, "The Trade Union as a Wage-Fixing Institution," *American Economic Review*, **37**:577 (1947).

3. The third way in which union wage policy can affect business stability is by setting a floor under the deflationary spiral characteristic of depression periods. Undoubtedly there are some depressions during which wage reductions have a beneficent cathartic influence by making possible a necessary readjustment of costs and prices to changed demand conditions. This may have been the case in 1921, when recovery seems to have been materially aided by wage and price reductions which brought our high wartime price structure into alignment with world levels. But in many business downturns, general wage reductions serve only to intensify business pessimism and to accelerate the contraction of income, employment, and investment opportunities.

The contrasting experiences of the United States and Sweden in recovering from the great depression suggest that, at least in a period when the marginal efficiency of capital has fallen to a very low level, relative stability of money wages may be preferable to large reductions. In Sweden, during the depression of the early thirties, a policy of maintaining wages was followed which most observers consider helped that country to a quick recovery.[26] Wages fell less than five per cent in Sweden in the worst year of the depression.[27] On the other hand, no country made such drastic cuts in wages and other costs from 1930 to 1933 as the United States, yet no country suffered more intensely from that depression. In the United States, total payrolls in manufacturing, mining, and steam railroads fell by over half from 1929 to 1932.[28]

The severe wage deflation of the great depression is not likely to be repeated in the future unless the pattern of our industrial relations undergoes a sharp reversal. Unions characteristically think of wages as income, rather than as a cost, and consequently have little sympathy for proposals that wages be rendered "flexible" to assist recovery from depression. The experience of the recession in 1938 suggests that the wage rigidity produced by such union attitudes may produce a cyclical pattern characterized by an extremely sharp fall in production and employment as declining demand impinges upon rigid wage costs. On the other hand, if consumer income is maintained by social security and relief payments, a fairly rapid recovery can be achieved since the relative stability of costs and prices prevents the strengthening of deflationary forces.

In contrast to economic writings prior to 1929, which on the whole considered wage flexibility desirable over the cycle, there has been a marked tendency in recent economic thought to view wage rigidity as a factor contributing to economic stability. One investigator,[29] for example, has concluded that while flexible wages may have tended to stabilize production and employment in an earlier and more generally competitive period of American industrial development, they would not exercise an equally salutary effect in our present economy which is characterized by "sticky" administered prices in a number of strategic areas. In such an economy, the stabilization of certain key prices, among them wage rates, may prove more effective in maintaining employment and production on an even keel.

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[26] See, for example, A. Montgomery, *How Sweden Overcame the Depression, 1930–1933*, translated by L. B. Eyre (Stockholm, Alb. Bonniers Boktryckeri, 1938), p. 52.

[27] *Monthly Labor Review*, **51**:538 (1940).

[28] *Monthly Labor Review*, **51**:538 (1940).

The growing interest in rigid wages as a stabilizer has been accompanied by a lessening of confidence in the efficacy of the rate of interest. It is now recognized that although the upward instability of the price system can be checked by movements of the interest rate, the instability downward cannot be checked easily, if at all, by that means. In fact, some prominent economists have concluded that the only reliable check within the economic system is the rigidity of wage rates.[30]

Cyclical Variation in the Efficiency of Labor

Unions may affect the contour of the business cycle not only through wage policy but also through their effect upon labor efficiency. Employers are concerned with labor as a cost of production, but labor cost is not a simple function of wage rates. Labor cost per unit of product is the resultant of three factors: (1) the wage rate; (2) the efficiency of labor; (3) the volume of production. These factors are not entirely independent, for as will appear in the following discussion, volume has an important influence on the level of labor efficiency. Nevertheless, the interaction of these three factors ultimately determines the trend of labor costs over the business cycle.

The cyclical behavior of labor costs has important repercussions upon the profitability of investment and upon the general level of prices. If periods of decreasing labor efficiency were correlated with periods of increasing wage rates, then the cyclical fluctuation of labor costs would be exaggerated. On the other hand, if labor efficiency bore a positive relation to changes in the wage level, the labor costs would be rendered more stable over the cycle. The behavior of labor efficiency, therefore, is an important determinant of the extent to which wage changes will be reflected in alterations in costs and prices.

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[29] O. Lange, *Price Flexibility and Employment*, Cowles Commission Monograph No. 8 (Bloomington, Indiana, The Principia Press, 1944), p. 90.

[30] J. R. Hicks, *Value and Capital* (Oxford, Clarendon Press, 1939), p. 269. This conclusion is reached by Hicks in his discussion of the situation in which all elasticities of expectation are unity—i.e., where a change in *current* prices changes expected prices in the same direction and in the same proportion.

The actual variation of labor efficiency over the cycle is a matter of some controversy. Although statistics are available for "labor productivity," these figures do not really represent the effect of changing labor efficiency, but rather of the combined effectiveness of labor and capital. Therefore, analysis in this field must largely rely upon deductive reasoning, buttressed where possible by empirical data.

LABOR EFFORT

If by labor efficiency we mean labor effort, then there is reason to believe that in the absence of strong union organization, employee efficiency tends to increase as the lines of unemployed lengthen. It is human nature for the employed worker to value his job more highly—and therefore to apply himself to his work more conscientiously—when there are 10 other men seeking it, than at a time when he can quit and get another position without difficulty. Most employers would agree that worker effort showed a marked decrease during the war years when labor was scarce, with some tendency in the opposite direction in the period since the end of the war. Not only does individual employee diligence diminish in periods of labor scarcity, but also the high labor turnover and the employment of marginal persons during such periods tends to reduce the average efficiency of the work force taken as a whole.

However, the problem of labor efficiency is complex, and there are important considerations operating in the opposite direction. For example, no study of labor efficiency and motivation can ignore the so-called "lump of labor" theory, which is deeply ingrained in labor thinking. In times of slack employment, laborers tend to draw out their jobs to make them last as long as possible, on the theory that there is just so much work to go around, and when that is exhausted, their jobs may be at an end. This attitude, of course, overlooks the fact that job tenure ultimately depends upon the margin between costs and prices, and delaying tactics may so narrow this margin as to make it impossible for an employer to compete. Nevertheless, employees frequently act in terms of this theory, and therefore it is a factor which may make for reduced labor efficiency in times of depression.

On the whole, it seems likely that in a non-union economy the first tendency—toward increased efficiency in depression—would dominate, since employees bargain individually for their jobs, and therefore reason that individual effort may make the difference between retention on the payroll and dismissal. In a unionized economy, however, the force of the first tendency is considerably diminished by the security which collective bargaining provides, while at the same time, the very existence of a union may give explicit form to the "lump of labor" dogma. A strong union faced by growing unemployment among its membership often reacts by limiting the size of a man's daily or hourly output, and by imposing various make-work regulations designed to make the job last as long as possible.[31] Moreover, since union contracts frequently specify that seniority must be observed in making layoffs, the pressure on the individual employee to increase output in order to retain his job is removed, and he becomes more receptive to the attractive notion of drawing out his job. As a consequence, strong unionism may alter what has been the characteristic behavior of labor efficiency over the cycle, so that efficiency will show no tendency to rise in depression and may even deteriorate through the multiplication of union rules. However, in severe depression, the union itself is likely to be so weakened that it will be unable to enforce such burdensome regulations against employers.

Changes in Man-hour Output

Thus far we have considered labor efficiency as it is affected by worker effort. But in many industries—particularly those which are highly mechanized—the speed of work is geared to the speed of the line, leaving little room for individual variation. In such industries, the volume of output becomes a major determinant of the level of labor costs.

If efficiency of labor is measured in terms of man-hour output—which is a composite of the varying efficiency of labor and capital—then there is an indication of a marked decline of efficiency in depression periods. For example, the Chief Economist of the U. S. Bureau of Labor Statistics, testifying before the Temporary National Economic Committee, called attention to the decline in labor productivity in all manufacturing industries which occurred from 1931 to 1932, and stated:

> There were certain lines of manufacturing, notably in the heavy industries, in which productivity went down very sharply and will go down very sharply every time the volume of physical production declines. One of the characteristics of a depression is the tendency of the output per worker to go down, which in large measure may offset the benefits of reduced labor costs that people seek to achieve through wage reductions in a period of depression. . . .[32]

The reason for this variation in productivity is primarily technological. It does not depend upon the worker's effort so much as upon the volume of production. In highly mechanized industries, for considerable ranges of output, labor becomes a fixed cost. Hence decreases in output become decreases in product per man-hour. For example, in steel production, 35 per cent more hours of manufacturing labor and 14 per cent more hours of administrative labor are required to manufacture a gross ton of finished steel products at 20–25 per cent of capacity than at 55–60 per cent of capacity.[33] In many industries—steel, glass, cereals, baked goods, etc.—where indivisible units such as ovens, furnaces, and kilns must be added as production expands, decreases in output below optimum capacity ordinarily occasion a loss in labor efficiency, since the labor force cannot be curtailed proportionately as output falls.[34]

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[31] For examples of such variations, see S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 6.

[32] *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power* (Washington, 1940), Pt. 30, p. 16229.

The importance of the technological factor in labor efficiency appears to vary directly with the severity of the depression and hence with the decline in output which results. As regards a minor recession, recent statistics suggest that there is no substantial difference between the movement of labor productivity in depression or prosperity. Thus, man-hour output rose at approximately the same rate in 1919–20 as in the depression phase of 1921–22.[35]

Obviously unions can have little effect upon the technological factor in changing labor efficiency. However, in so far as the human element is important, the above analysis suggests that union security and union make-work rules may produce some reduction in labor efficiency in times of slack employment. This tendency plus the decrease in man-hour output which occurs in some industries when output is curtailed would deprive wage reductions of a large part of their efficacy in reducing labor costs in depression.

Unions and Work Sharing in Depression

Another possible way in which unions may affect the course of the business cycle is by encouraging work-sharing plans among union members and thus indirectly affecting the marginal propensity to consume. While there has been a growing preference among unions for seniority provisions with regard to layoffs, we noted in Chapter 6 that a number of unions have followed the plan of equal division of work. The needle trade unions, the boot and shoe workers, the textile workers, and the brewery workers rely mainly on this policy.[36]

Whether union organization produces a greater amount of work sharing than would exist in a free market can hardly be proved, but there is some reason for believing this to be so. If employers are free to dismiss men according to their own choice, they are likely to select the least efficient and least competent men for dismissal,[37] retaining the core of their best workers. Thus periods of depression would concentrate unemployment on a small number of men. This method of allocating jobs in time of depression probably involves more social damage than any other, since the skills of these men are likely to be lost through long periods of inactivity.

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[33] *Monthly Labor Review*, **40**:1155–1161 (1935).

[34] A similar conclusion was reached from study of the International Harvester Company. See *Industrial Wage Rates, Labor Costs, and Price Policies*, TNEC Monograph No. 5 (Washington, 1940).

[35] A. Hansen, *Economic Policy and Full Employment* (New York, McGraw-Hill Book Company, 1947), p. 155.

[36] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 112.

Unions, however, frequently view unemployment as a group problem which is to be shared by all union members, rather than borne by particular members simply because they happen to be less fortunately endowed than other employees. Work sharing, by giving a larger number of employees an opportunity to utilize their skills, tends to preserve workers' morale and ability during depression, and therefore, on the whole, would seem to be socially desirable.

If unions do, on balance, encourage work sharing, how is this likely to affect the cycle? The effects are likely to be of mixed nature. On the one hand, institution of work sharing in depression will give jobs to some persons who have been or would be living off their relatives and gifts from friends. Persons in such circumstances are likely to restrict their consumption, and hence giving them work may induce them to expand their consumption. On the other hand, they may save now, whereas they were unable to previously, in order to pay back their debts. If earnings among the previously fully employed workers have been high, work sharing with consequent reductions in income per person will probably increase the marginal propensity to consume.

The effects of work sharing, however, are complicated by the existence of government relief. If work sharing is not resorted to, some workers will be unemployed and will be supported by government relief. Assuming that these are net expenditures, financed by government borrowing that would not have been undertaken otherwise, they would tend to have a stimulating effect in times of general deflation. Work sharing may thus reduce government deficit expenditures which to some theorists would be an unfavorable tendency. On the other hand, it can be argued that, even assuming deficit financing, the specter of a large volume of unemployment may lead workers with jobs to restrict their consumption and attempt to save in case they are laid off. Moreover, a large and mounting government debt may have a discouraging effect upon the inducement to invest.

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[37] An important factor affecting employers' attitudes toward dismissal plans will be the degree of accuracy with which wages are adjusted to efficiency. When the payment normally made to inferior workers is higher, in relation to their efficiency, than that made to better workers, there is a strong inducement to employers to meet bad times by dispensing with the least profitable part of their staff. It is thus natural to find that work sharing is least practiced in time wage industries as compared with piece wage industries. See A. C. Pigou, *Industrial Fluctuations* (London, Macmillan and Company, 1927), p. 325.

Union Control of the Rate of Technological Progress

Industry tends to invest in spurts, which has the effect of concentrating technological changes in a short period of time. If industry could be encouraged to spread investment more evenly over time, the problem of technological unemployment would be considerably alleviated and the cyclical fluctuation in income and employment which results from irregular investment would be lessened. Can unions achieve this result by their control of the rate of technological change?

Unions are not unmindful of this possibility and indeed, one of the major purposes motivating organized labor's promotion of the dismissal wage is the hope that it will encourage industry to adopt a more orderly plan of mechanization.[38] However, the dismissal wage, although designed to lessen fluctuations in employment, may actually accentuate them. Requirement of paying dismissal wages to displaced workers might not operate as much of a deterrent to investment in labor-saving machinery in prosperous times when jobs can readily be found for workers elsewhere in the plant; but in depression the additional cost of paying dismissal wages to displaced workers would make new labor-saving processes so expensive to undertake that the little investment remaining in these times would be discouraged. Thus the net effect of union regulations controlling layoffs and requiring payments of dismissal wages may be to discourage investment when it is needed most and to postpone it until times when capital outlays are already high. Consequently, the cyclical instability in investment expenditures will be augmented.

However, unions may have greater success in evening out fluctuations in investment by active control of the rate of technological change. The various means adopted by individual unions to meet the problem of new machinery which threatens displacement of labor were discussed previously in Chapter 6. It is possible that management will be compelled by such measures to introduce improvements more gradually in periods of prosperity when the union's bargaining power is strong. Such an entrepreneurial reaction would tend to diminish the excesses of the boom and to lengthen the prosperity phase of the cycle. On the other hand, management may be encouraged to delay introduction of labor-saving improvements until depression when the resistance of the union may be weakened. Employers in the women's garment industry, for example, greatly extended use of pressing machines when the union was weakened during the depression.[39] Such a policy is hardly to be condoned, yet to the extent that it augments the volume of capital expenditure in depression, it lessens the deflation of the period and sets the stage for an earlier resumption of business activity.

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[38] See Philip Murray, *Technological Unemployment*, United Steelworkers Publication No. 3 (Pittsburgh, United Steelworkers, 1940), p. 39.

There is, however, the basic difficulty that the improvements which require the greatest outlay of capital funds and which consequently are most responsible for creating fluctuations in the rate of investment and employment are generally of such high labor-saving capacity that organized labor is practically powerless to deal with them. This, for example, was the situation which faced the United Steelworkers when the continuous automatic strip mills were introduced in the steel industry. Nevertheless, the efforts of organized labor to regulate the rate of introduction of machinery may be successful in producing a more orderly application of many minor improvements in technique which *in toto* constitute a substantial portion of investment expenditure over the cycle.

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[39] See S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 227.

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Unions and Technological Innovation

Wage Pressure and Technological Discovery

If we define the constituent elements of economic progress as (1) technological advances, (2) discovery and development of new territory and new resources, (3) population growth, and (4) capital accumulation, it appears that the future will place a premium upon research and invention; for the decline of extensive investment opportunities attributable to the gradual stabilization of population and the disappearance of "new frontiers" narrows down the outlets for new investment to those which are created by inventive genius. American industry has accepted the challenge, and today is spending over 840 million dollars a year in search for new and improved products and methods of production. The Federal Government spent about 625 million dollars on research and development during the fiscal year 1947. If we add to these two figures an estimated 40 million dollars spent by colleges, universities, and institutes, the total research expenditure for the economy would be in the neighborhood of 1.5 billion dollars annually.[1] This large investment designed to foster invention will, in all likelihood, accelerate the pace of technological progress in the years to come.

What effect will union organization and wage pressure have upon the rate of technological discovery in the research laboratory? To what extent is the volume and nature of industrial research influenced by the level of wage rates? Do higher wage costs induce invention? The answers to these and related questions are essential to an adequate understanding of the role of union organization in our modern economy. If the rate of technological discovery is sensitive to rising wage levels, unions, though having as one of their objectives the protection of the worker against the encroachment of the machine, may actually accelerate the displacement of labor in particular industries because of the stimulus wage increases afford to labor-saving inventions. From the long-run point of view, it may be to labor's advantage if the rate of technological discovery displays such sensitivity. If rising wages stimulate invention, labor can raise itself by its own bootstraps to a higher level of real income. Union pressure for higher wages will lead to increased invention and consequent increased investment in the new technology. In the end, labor may be provided with new employment opportunities and the possibility of rising real incomes.

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[1] *Barron's* (December 8, 1947), p. 11.

Technological progress represents the fruition of a twofold process: the discovery or invention of new methods and new products; and their application to and assimilation into industrial production. In a later chapter, we shall be concerned with the latter phase of the process—the actual introduction of improved machinery by employers. In this chapter we shall consider the preliminary stage of technological discovery.

The tempo of industrial invention is compounded of two factors:

A. The rate at which new discoveries are made.

B. The rate at which these discoveries are released from the experimental stage by individual inventors and research laboratories.

Factor A, the rate at which discoveries are made, may be influenced by union activities in four ways:

1. Unions, by tactics obstructing the introduction of certain types of mechanical improvements in particular industries, may discourage inventors from further experimentation in these industries.
2. Wage pressure may alter the volume of funds which are spent by industry on research.
3. Wage pressure may influence the direction or nature of research undertaken with given funds.
4. Unions, by active coöperation with management, may increase the flow of research ideas.

Wage pressure may influence factor B in two ways:

1. By affecting the proportion of discoveries which are worth exploiting.
2. By changing the average gestation period of invention.

These possibilities do not, of course, exhaust the ways in which unions and wage pressure generally may affect invention, but analysis along these lines will permit examination of the principal interrelationships.

Union Tactics as a Deterrent to Invention

A high rate of invention requires an economic environment in which rapid technological advance is viewed as a virtue, rather than a vice. Union organization, however, has erected substantial obstacles in the path of technological progress. The effect of such restrictive policies must be judged not only by the retardation they produce in the rate of introduction of known improvements, but also by the discouragement they afford to potential invention. Undoubtedly research in the development of new building techniques has been discouraged because inventors realize that any new labor-saving methods which might be discovered would have to contend with the organized hostility of union labor. The extent to which invention has been stifled in this industry is indicated by the contemporaneous existence of high labor costs side by side with time-consuming antiquated methods. Undoubtedly, the prime difficulty in the building industry is one of application of new improvements, rather than in lack of ideas. Prefabrication is a commercial reality, but its application on a mass production basis has been indefinitely delayed by a mass of vested interests, union rules, and local real estate and zoning regulations. The rate of discovery of new ideas is a function of the rate of application of those already known but not yet in use. Hence every new idea which labor unions have obstructed or buried might have been the mother of 10 new ideas not yet born.

WAGE PRESSURE AND RESEARCH EXPENDITURE

Not all inventions come from industrial research laboratories. Indeed there is considerable evidence that most revolutionary inventions are actually conceived by independent inventors who are uninhibited by considerations of vested interests. But, because research is an expensive undertaking, most new improvements are, in the end, perfected in research laboratories. One investigator, for example, has found that less than five per cent of inventions which reach commercial development and industrial exploitation are the work solely of independent inventors.[2] Therefore, if unions, through wage pressure, could stimulate the volume of research expenditures undertaken by private industry, this would in turn have an influence on the major portion of the stream of invention.

Does wage pressure affect the willingness of corporations to sink funds into research? The decade of the thirties was marked by belligerent union organizing activity and a substantial increase in the level of wage rates. During this same period, research expenditures of industry almost tripled.[3] It would be premature, however, to postulate a causal relationship here; for in the previous decade, from 1920 to 1931, research expenditures increased fivefold[4] while wage rates rose hardly at all.[5] It is apparent that other factors must be sought to explain the mushrooming of industrial research activity.

The long-term growth of industrial research appears to be attributable to a number of diverse factors. Its beginnings can be traced to the repercussions of the first World War. The outbreak of the war, by cutting off our supply of drugs, dyes, and chemicals demonstrated how much we had come to depend upon German technology and provided a great stimulus to research in our own corporate laboratories. Moreover, our tax laws, by allowing research expenditures to be deducted before figuring profits, provided a great subsidy to industrial research. During the twenties, the high costs left by the war and the inefficiency which had developed during the years of war prosperity produced a reaction which took the form of widescale rationalization of industry and energetic efforts to improve technical efficiency. As one company after another set up research laboratories, research became part of the competitive practice of the time. Research expenditures became an adjunct of monopolistic competition and mushroomed for the same reasons that advertising expenditures increased. The great scientific advances of the last few decades have also provided a major stimulus to industrial research, particularly in the development of new products—synthetics, plastics, and other substitutes. Undoubtedly, high wages, as one element of the cost-price structure, have provided an economic setting conducive to research and invention, but the accelerated rise in wage rates attributable to union organization does not appear to have had much effect on the interest evidenced by management in research endeavor.[6]

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[2] M. Holland, "Research, Science, and Invention," in F. W. Wile (ed.), *A Century of Progress* (New York, Doubleday, Doran and Company, 1928), p. 332.

[3] *Research—A National Resource* (Washington, U. S. National Resources Planning Board, 1940), vol. 2, p. 1.

[4] D. Weintraub and I. Kaplan, *Summary of Findings to Date* (Philadelphia, U. S. Works Progress Administration, National Research Project on Reemployment Opportunities, March 1938), p. 6.

[5] Average hourly earnings in manufacturing, mining, and steam railroads were 54.7 cents in 1923 and in 1931, although there was a rise of a few cents in the intervening years. *Monthly Labor Review*, **51**:524 (1940).

For American business as a whole, research expenditure can be represented by a rising curve, the deviations from the upward sloping curve occurring in response to fluctuations in business conditions, rather than to changing labor costs. For example, between the depression years 1931 and 1933, the number of persons employed in research laboratories in the United States decreased approximately 35 per cent, while in sharp contrast, from 1938 to 1940, years of business recovery, the rate of increase of research personnel was twice the average rate for the last 20 years.[7] The high profits of the war and postwar years produced a boom in research. The number of industrial research workers doubled from 1940 to 1948 while industrial research expenditures tripled in the same period.[8] If, over the cycle, there is a correlation between wage rates and expenditure upon research, this is probably attributable to the temporal coincidence of high wages and good business, rather than to a causal relationship between wage levels and research expenditures. In the short run, particularly in periods of business stagnation, wage pressure may actually lead to some curtailment of research by weakening the cash position of an enterprise. Wage increases of organized labor, for example, might compel an employer to reduce disbursements to his unorganized employees—which generally includes research workers. Because research expenditures are quick to react to changes in business profits, it is conceivable that without unions and with a lower level of wages, expenditures on research might be larger than at present, on the condition that production and profits—and hence the funds available for expenditure on research—were larger at the lower level of costs.

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[6] This conclusion is borne out by a survey of industrial research laboratories conducted by one of the writers in 1946. To the question: "Have rising wage levels in your company induced you to expand expenditures upon research," 20 replies were in the affirmative and 30 in the negative.

[7] *Research—A National Resource* (Washington, U. S. National Resources Planning Board, 1940), vol. 2, pp. 37, 185.

[8] *Barron's* (December 8, 1947), p. 11.

Even if it could be demonstrated that unions, through wage pressure, had stimulated research expenditure in the past, this would not necessarily forecast an increased rate of discovery in the future; for thus far union wage pressure has been directed particularly against large corporations which are the very ones most capable of reaction to such pressure by expenditure upon research. While unions can be expected to organize labor in an increasing number of small companies in the future, a parallel expansion of research endeavor is not of an equal likelihood. Because research is an expensive proposition, the bulk of industrial research in the United States is supported by a comparatively few large companies. Less than 3 per cent of the concerns engaged in research employ about 50 per cent of the total research personnel.[9] Although there has been a substantial increase in personnel attached to laboratories supported by these large companies, investigation indicates that the rate at which research is being adopted by *new* managements has tended to fall off in recent years.[10] The fact that this trend has become evident during a period of rapidly rising wage levels is further evidence of the lack of close relation between wage pressure and research endeavor.

WAGE PRESSURE AND THE DIRECTION OF RESEARCH

The sensitivity to wage pressure of the birth rate of new technical ideas depends upon the nature of the research project. Projects for pure research,[11] for example, have little or no relation to the level of wage rates. Ideas for product improvement and development of new products exhibit some sensitivity to wage rates, but less than that shown by research ideas designed to improve manufacturing operations. Therefore, if industrial research were composed wholly, or even largely, of projects involving cost reduction, wage pressure would supply a much greater stimulus to research expenditure than it does. Actually, however, only about 25 per cent of regular research budgets is devoted to cost reduction, while in the neighborhood of 75 per cent is allocated to product improvement and development of new products.[12]

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[9] D. Weintraub and I. Kaplan, *Summary of Findings to Date* (Philadelphia, U. S. Works Progress Administration, National Research Project on Reemployment Opportunities, March 1938), p. 6. Despite the fact that research is concentrated in large companies, new methods are as likely to be introduced by small and medium sized concerns as by large corporations. See *Relative Efficiency of Large, Medium Sized, and Small Business*, TNEC Monograph No. 13 (Washington, 1941), p. 138.

[10] *Research—A National Resource* (Washington, U. S. National Resources Planning Board, 1940), vol. 2, p. 185.

[11] Pure research is research conducted with no prospect of immediate commercial application, but pursued in the hope of improving our basic knowledge of science so that ultimately the flow of commercially useful products may be augmented.

One might expect, on the basis of *a priori* reasoning, that the pressure of rising labor costs would tend to produce a shift in emphasis in research from development of new and improved products to discovery of labor-saving methods. Inductive investigation, however, suggests that this change in emphasis in industrial research activity has not occurred. On the contrary, the percentage of corporate research budgets allocated to cost reduction projects actually appears to be decreasing! The latter trend was reported by a number of research executives interviewed by one of the writers and has also been observed by other investigators. For example, the Study of Technological Change made by the Works Progress Administration concludes:

> There is evidence . . . that the emphasis in industrial research has shifted from problems concerned with reducing costs to the development of new products and new applications of old products.[13]

That this trend has become evident during a period of rapidly rising wage rates is highly significant. A number of reasons suggest themselves as explanations for this trend. In the first place, most industrial research is supported by large corporations which make big expenditures for advertising stressing product quality and improvements. Emphasis upon quality and service is a dominant characteristic of large business enterprises, and it colors not only sales policy but research activity as well. In the second place, it is possible that investment in research aimed at cost reduction is subject to more rapidly diminishing returns than investment in research devoted to development of new and improved products. In many operations, it becomes progressively more difficult to reduce labor costs as a higher degree of automatism is achieved. Carton-filling is an example of an operation which has reached this stage. On the other hand, the possibilities of increasing profits through product improvement seem to be unlimited. As one writer has phrased it, an invention which saves anything tends to reduce its own importance and discourages further invention in the same line, whereas an invention which saves nothing, but gives a new and improved product, is bound to increase its own field.[14] In the third place, research directed at product improvement is less likely to displace labor and thus produces less friction with the labor force. This consideration is probably not of great importance at present, but may become more important if the amount of unemployment becomes substantial.

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[12] This percentage is indicated by a survey of industrial research directors conducted by one of the writers.

[13] D. Weintraub, "Effects of Current and Prospective Technological Developments upon Capital Formation," *American Economic Review*, **29**:29 (1939, supplement).

UNION-MANAGEMENT COÖPERATION IN RESEARCH

Unions may affect the level of research expenditure not only by wage pressure, but also by active participation in research programs to reduce costs and discover improved techniques in unionized plants. Plans of this nature, involving union-management coöperation, have been tried in a number of companies, generally when the position of the union was threatened by price cutting based upon the lower wage levels and/or more efficient production methods prevailing in non-union companies in the industry.

The United Steelworkers has proposed joint research programs to firms with which it has agreements. However, except for a few companies on the verge of bankruptcy, most firms have been hesitant to engage in such a program, partly because of a doubt that any significant increase in plant efficiency would be forthcoming, and partly because of a fear that joint research would serve as an entering wedge for increased union participation in plant management. A local of the United Textile Workers undertook a joint research program in the Naumkeag Steam Cotton Company of Salem, Massachusetts, in 1929, but as the economy program became identified with the stretchout, it lost popularity with the workers, and was finally abandoned in 1932.[15] Other unions which engage in research are: the International Photo-Engravers' Union which maintains a research department[16]; the International Ladies Garment Workers' Union in the New York City dress industry, where an efficiency and publicity department is maintained through joint contributions of employers and the union[17]; the Textile Workers Union of America; and the Amalgamated Clothing Workers.[18] In the full-fashioned hosiery division of the textile industry, about 60 per cent of the firms have been prompted to modernize plants through union persuasion, according to Emil Rieve, president of the Textile Workers Union of America.[19] One may question whether this and other unions will show the same interest in stimulating research to reduce costs once the position of the union is adequately safeguarded by more complete unionization of the industry.

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[14] S. C. Gilfillan, *The Sociology of Invention* (Chicago, Follett Publishing Company, 1935), pp. 7–8.

[15] See S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 18, for a detailed account of the Naumkeag experiment.

[16] The Photo-Engravers have a research department under a full-time director which tests out new ideas and serves as a clearinghouse for up-to-date technological information. The Printing Pressmen have a similar service available to employers who have signed contracts with their local unions.

[17] See J. C. Furnas, "New Styles in Unions," *Saturday Evening Post*, **214**:12–13 (Aug. 16, 1941).

[18] See S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), chap. 17.

Nevertheless, the possibilities of union-management coöperation are so great that efforts in this direction should not be lightly dismissed. If unions can be convinced that a high rate of technological innovation is necessary for full employment, and if practical assurance can be offered that advances made in technique will not be used *for* management *against* labor, union-management coöperation can contribute to an accelerated rate of invention in the future. Practical coöperation on a large scale, however, must wait upon the education of the rank and file members to the benefits of technology, and upon greater efforts by management and government to ensure that labor in fact secures these benefits. Extension of the period of unemployment benefits by the government and greater use by industry of the dismissal wage might be steps in the right direction.

WAGE PRESSURE AND THE EFFECTIVE RATE OF DISCOVERY

For certain purposes, it is convenient to distinguish the rate at which inventions are developed in the laboratory, from the rate at which they are made available to the public. The former may be called the *actual* rate of discovery; the latter the *effective* rate of discovery. These two rates are not necessarily equal; the proportion of inventions which will be commercially exploited depends upon the cost-price structure and upon the nature of competition.

Although wage pressure does not have much relation to the actual rate of discovery, rising wage costs may increase the proportion of inventions worth exploiting and thus produce an acceleration in the effective rate of discovery. An increase in wage rates may be the determining factor in management's decision to make the final research appropriation needed to bring a new product or process into production. This stimulus is probably of most significance with regard to improved processes where margins and expected sales can be more accurately estimated. However, expectation of rising wage rates in the future makes management particularly anxious to improve its current profit position, so as to be prepared for the higher burden of costs. For this reason, a continuously rising wage level probably stimulates commercial application of new and improved products as well. Moreover, wage increases may act as a detonator in research activity, much the same as they increase the general level of efficiency of an enterprise. Research work may have been going on sporadically for some time on development of a new manufacturing technique, but a sharp increase in labor costs will bring orders from management to speed up experimentation and get into production as rapidly as possible. Thus, wage pressure may increase the effective rate of discovery by shortening the average period of gestation of invention.

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[19] *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power* (Washington, 1940), Pt. 30, p. 16864.

From the point of view of national welfare, it is probable that a forthcoming invention spends too long a period in the laboratory. What is needed is a higher effective rate of discovery accompanied by a more orderly process of application of improved products and methods. In a survey of important discoveries, one investigator found that an average of half a century elapses between the first serious work on an invention and the actual important use of it.[20] The lapse of time between discovery of the new product or process and the first serious laboratory work on it is often still longer. Perhaps wage pressure, by augmenting the advantage of the new over the old, can stimulate management to accelerate research experimentation upon new discoveries and to release them more rapidly to the public. In certain industries, the long incubation period of invention may be attributable in part to the disinclination of large companies to disturb the status quo. For example, in industries in which excess capacity, price stabilization agreements, and share-the-market arrangements exist, rapid technological change is likely to be feared as a threat to the stability of existing relationships between the major producers. To some extent, also, it is possible that the large capital expenditures required by our basic industries place a premium on stability, rather than rapid change.[21] Rising labor costs, however, make change more desirable and continuance of old methods costly. Therefore, wage pressure may accelerate the effective rate of discovery by reducing the time which inventions spend in the unproductive laboratory stage.

However, whatever the degree of divergence between actual and effective rates of discovery, it is doubtful whether unions will make much of a contribution in the direction of narrowing this divergence and achieving an acceleration in the effective rate. While it is true that union pressure on costs may shorten the average period of gestation of invention, the growing strength of union organization is likely to be reflected in a multiplication of union rules and regulations which retard the rate of introduction of mechanical improvements. These restrictions are concrete and the retardation they impose on technological change is known, whereas, by contrast, the effect of wage pressure upon technological discovery is vague and indirect. Although at the present stage of union development, there may still be some small net stimulus forthcoming from wage pressure, in the future, growing union efforts to safeguard the jobs of individual union members and to preserve the status quo will probably act as an over-all brake on the pace of technological advancement.

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[20] S. C. Gilfillan, *The Sociology of Invention* (Chicago, Follett Publishing Company, 1935), p. 96.

[21] However, statistics suggest that large companies spend proportionately more on research than do small firms. Big business, therefore, is not hostile to technological progress and indeed is one of its most active protagonists. Nevertheless, most revolutionary inventions still originate outside of corporate research laboratories.

UNIONIZATION OF TECHNOLOGISTS AND RESEARCHERS

Then there is the question of whether the organization of professional engineers and chemists will adversely affect industrial research. It has been argued that if organization occurs on a large enough scale to result in raising the salaries of professional engineers and chemists substantially, the effect will be to reduce the employment of professional personnel and thus to discourage research. If industrial research is discouraged, technological advancement, and hence general employment, will decline.[22]

The basic assumption of this analysis is that the demand for the services of professional engineers and chemists is very elastic, and therefore, that it will decline sharply if their salaries are considerably increased. It is possible that in times of economic stress companies may reduce or liquidate technical staffs, and they may be more inclined to do so if the salaries of these staffs are quite high.

On the other hand, the research payroll of industry, although large, is relatively insignificant in comparison with its total wage and salary bill. Moreover, the salaries of professional personnel do not move in a vacuum, but are affected by and move in the same direction as those of other employees. Therefore, even a very considerable increase in the salary level of professional engineers and chemists would result in only a small percentage increase in labor costs. In addition, the possible returns from industrial research in terms of lower production costs, new and superior products, and improved methods are so great that it seems probable that the employment of professional engineers and chemists depends more on the anticipated results of their work than on the costs of their salaries. If this analysis is correct, more complete organization of professional engineers and chemists is unlikely to have adverse effects on industrial research, technological advancement, or employment.[23]

Wage Pressure and Induced Invention[24]

Analysis of the relationship of wage pressure to organized research expenditure—i.e., that part of inventive activity which is conducted in industrial research laboratories—suggests that the rate of invention may be less sensitive to wage pressure than is ordinarily supposed. However, much invention is carried on by plant managers, foremen, and individual employers without the aid of expensive research staffs. Thus, for example, when a foreman devises a new and more economical way of utilizing floor space, he is "inventing," though the results of his efforts will not be of the same magnitude as the invention of a mechanical cotton picker. Moreover, a substantial volume of invention is carried on outside of the sphere of corporate activity. While the bulk of invention in the future will probably come from the industrial laboratory associated with the large corporation, revolutionary inventions may continue to spring from the ideas of independent investigators and ingenious entrepreneurs who are uninhibited by vested interests. For example, many of the really important inventions in World War II—the turbosupercharger, synthetic rubber, frequency modulation—were conceived by inventors working independently of corporation laboratories.[25] It has been estimated that only 9 out of 69 revolutionary inventions made between 1890 and 1929 were initiated and developed by corporations.[26]

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[22] See, e.g., S. H. Slichter, "The Responsibility of Organized Labor for Employment," *American Economic Review, Papers and Proceedings*, **35**:198–199 (May 1945).

[23] H. R. Northrup, "Collective Bargaining by Professional Societies," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), pp. 160–161.

[24] Portions of this section first appeared in an article entitled "A Note on Hicks's Theory of Invention," in the *American Economic Review*, **36**:83–96 (1946), and are reprinted with the permission of the American Economic Association.

It is not immediately apparent why this sphere of inventive activity carried on outside the industrial research laboratory should manifest any greater degree of sensitivity to wage pressure than the area of invention examined in the preceding section. Nevertheless, most economists, looking at the whole scope of inventive activity, postulate a close relationship between the level of wage rates and the rate of discovery of labor-saving inventions. Indeed, the theory of economic progress, which attributes to changes in relative factor prices a major role in the actuation of invention, seems to be so widely held among economists that it may fairly be called the "orthodox" doctrine on the subject.

The student, of course, has no vested interest in any theory. He should be interested primarily in understanding the possible interrelationships of factor prices and inventive activity, and the role of invention in facilitating the absorption of increased quantities of a factor of production into the economy. Analysis of the "orthodox" theory of induced invention, and of its possible shortcomings, will serve as a convenient framework for consideration of this larger problem.

DEFINITIONS AND CONCEPTS[27]

The theory of invention has developed its own technical phraseology, and therefore, before undertaking an inquiry into its rationale, we will find it convenient to explain briefly some of the customary terminology:

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[25] See J. J. Brown, "American Technology: Myth vs. Reality," *Politics*, **1**:269 (1944).

[26] W. M. Grosvenor, "The Seeds of Progress," *Chemical Industries*, **24**:24 (1929).

[27] In connection with this section, the student should read J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), chap. 6, which contains the

Induced invention[28]—an invention which is made as a result of a change in the relative prices of the factors of production.

Autonomous invention[29]—all other inventions. These, in general, are assumed to be neither predominantly labor saving nor capital saving.

Labor-saving invention[30]—an invention which increases the marginal product of capital relative to the marginal product of labor. *Ceteris paribus*, such inventions reduce labor's relative share in national income.

Very labor-saving invention[31]—a labor-saving invention which, if it had been known, would have been worthwhile even before prices changed. These inventions reduce labor's relative share and may reduce labor's absolute share in the real national income, if they are sufficiently labor saving.

Elasticity of demand for labor[32]—the proportionate change in the price of labor which accompanies a proportional change in its amount. An increase in the supply of labor will, if fully employed, increase the absolute share (i.e., real income) accruing to labor if the elasticity of demand for it is greater than unity.

Elasticity of substitution[33]—the relation of the relative increase (or decrease) in the absolute share of a factor of production to the relative increase (or decrease) in the national income. The elasticity of substitution is a measure of the ease with which one factor can be substituted for another over the whole economy. An increase in the supply of any factor will increase its relative share of the national income if its elasticity of substitution is greater than unity.

These concepts are convenient tools which enable the economic theorist to understand more fully the determinants and consequences of economic progress. For example, an outstanding phenomenon of American industrial development has been the spectacular increase in capital per worker. Capital per worker increased from about $557 per worker in

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fullest treatment of the subject. See also J. R. Hicks, "Distribution and Economic Progress: A Revised Version," *Review of Economic Studies*, **4**:1–12 (1936). Although Professor Hicks has revised his earlier definition of elasticity of substitution, he has not, to the writers' knowledge, altered in print the basic propositions laid down in the *Theory of Wages* regarding the theory of invention. Indeed, in the article referred to above, he begins by stating: "I shall say nothing here on the subject of inventions, for I have nothing to add at present to what I have already written on that topic." (p. 1, note 1).

[28] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 125.

[29] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 125.

[30] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 121.

[31] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 126.

[32] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 115.

[33] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 117. Professor Hicks has since altered his definition of the elasticity of substitution. However, for the purpose of exposition of the theory of invention, the earlier definition is more convenient.

manufacturing in 1850 to $5080 per worker in 1940.[34] How was this great increase in capital absorbed into the economic system? What effect does such an increase in the supply of one factor have upon its share in the national income?

An increase in the supply of capital, or of labor, will increase the total national product. At the same time, the increase in the supply of the one factor is likely to alter the total share going to that factor as a whole. If it adds to the absolute share, we say that the demand for the factor has an elasticity greater than unity. If the absolute share of the factor is unchanged, so that the fall in unit price is exactly counterbalanced by the increase in the quantity of the factor utilized, we say that the demand has an elasticity of unity. If the elasticity of demand for a factor is equal to unity, so that there is no change in its absolute share, at the same time that the increase in its supply is producing a net increment in national income, then the relative share of this factor in the augmented national income must be decreasing. This means that the advantage of the increase in supply of this factor inures to the benefit of the other factors of production.

There are a number of reasons why it may be difficult for industry to absorb additional quantities of the factor. It may be that technical ratios with other factors are fixed—one man can only use one shovel, and therefore an increase of capital manifested in the form of shovels would not find a ready market in industry. But the mere fact that technical ratios are fixed does not mean that substitution of one factor for another is completely barred. There still remains the possibility of product substitution by consumers, that is, consumers will spend a larger portion of their budgets on products containing larger quantities of the new factor as compared with others. Of course product substitution may likewise run into obstacles. For example, the man accustomed to wearing a hand-tailored suit might object to substitution of machine-sewn pockets for hand-sewn ones, even though the substitution was technically feasible. Thus there are two aspects to substitution—technical substitution and consumer substitution.[35] Taken together they determine the value of the elasticity of substitution—that is, the ease with which one factor can be substituted for another in the economy as a whole.

If industrial methods were stationary, if there were no progress in the arts, the possibilities of substitution between factors would be extremely limited. Invention tends to widen the area of such substitutability by changing the possible form and application of the factors of production. Thus, when invention is active, the elasticity of substitution will be high, and a factor which increases in quantity relative to others, is likely to increase its relative share in the national income. On the other hand, if the elasticity of substitution is low, a factor becoming more abundant will encounter difficulty in finding a place in industry. As a consequence, its price will fall and the relative share of other factors in the national income will rise.

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[34] W. I. King, *The Keys to Prosperity* (New York, Constitution and Free Enterprise Foundation Publishers, 1948), p. 78.

[35] See F. Machlup, "The Commonsense of the Elasticity of Substitution," *Review of Economic Studies*, **2**:202–213 (1935).

Statistical investigation in the United States indicates that, over a long period of years, employee compensation has constituted a fairly constant proportion of the national income, in the neighborhood of 60 per cent of aggregate income payments.[36] This suggests that the elasticity of substitution in this country is close to unity, and that changes in the supply of labor relative to capital do not alter labor's relative share. Of course, if the elasticity of substitution is equal to unity, it follows necessarily that the elasticity of demand for labor must be greater than unity. Some statistical confirmation of this hypothesis is afforded by one investigation which estimates that the demand for labor in the United States has an elasticity equal to -4.[37]

The Process of Absorption of an Increased Supply of a Factor

We have seen that the elasticity of substitution measures the over-all ease with which increments of a factor are absorbed into the productive organization of the economy. By what principal avenues is this process of absorption accomplished? The process can be examined conveniently by studying a hypothetical increase in the supply of capital relative to labor.

In the first place, the relative cheapening of capital will reduce the cost of those articles which contain a high proportion of capital charges, as compared with those articles in which the capital contribution is less substantial. As goods in the former class become more attractive to consumers, the total national product will tend to consist of a larger share of articles whose production requires a sizable capital contribution. This is substitution through changed composition of the national product.

In the second place, the application of methods of production already known, which were not previously profitable because of the relatively high price of capital, will now become economical. Thus, for example, the technique of electrification of railroads is known but not widely used at the present time. If, however, capital charges could be reduced, it is probable that there would be major changes in the rate of electrification of shorter railroad lines. This means of adaptation within a given technical milieu is substitution through changed factor combination in the production of unchanged outputs.

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[36] S. Kuznets, *National Income, A Summary of Findings* (New York, National Bureau of Economic Research, 1946), pp. 49–50.

[37] P. Douglas, *Theory of Wages* (New York, The Macmillan Company, 1934), pp. 152 ff.

In the third place, it is claimed that the changed relative prices of the factors will stimulate the search for new methods of production which will use more of the cheaper factor and save on the expensive one. In other words, the increase in supply of capital relative to labor will stimulate management to find means of saving labor, not merely by methods already known, but also by new methods previously unknown to science. An invention which is attributable to a change in the relative prices of the factors is therefore called an induced invention.

THE THEORY OF THE INDUCED INVENTION

Autonomous inventions which are attributable to advances in scientific knowledge and are not directly motivated by changing factor-cost ratios, are, this theory assumes, neither predominantly labor saving nor predominantly capital saving. Induced inventions, however, are held to be predominantly labor saving. They are biased in this direction because, over time, the price of capital tends to fall relative to the price of labor. Whereas birth control and union pressure have tended to keep the price of labor high, the large volume of corporate and institutionalized savings has kept the interest rate relatively low. As a consequence, an inducement has been afforded to management to concentrate research efforts on discovering means to economize in the use of labor, the relatively more expensive factor. Hence, when the two types of inventions—autonomous and induced—are added together, the result is a distinct bias for labor-saving inventions, which is in conformity with observed fact.

An increase of capital with labor remaining constant will raise the absolute share of labor in the total product. The rate of return on capital per unit will fall, but the absolute share of total product going to capital will also be increased. Whether or not the relative share of labor will rise will depend upon the slope of the marginal productivity curve of capital. If the curve is inelastic so that an increase in capital produces a relatively sharp drop in the rate of return on capital, the relative share of labor in total product will tend to increase.

If the increase in capital is accompanied by labor-saving invention, labor's relative share in total product will tend to diminish. A labor-saving invention as defined above increases the marginal productivity of capital relative to labor; it will therefore raise the relative share of capital in total product. However, the rise in the marginal productivity curve for capital attributable to labor-saving invention will ordinarily increase the absolute share of labor.

However, there are also inventions whose effect upon labor's absolute share is not so salutary. These are the so-called very labor-saving inventions—inventions which, if they had been known, would have paid even before factor prices changed. These inventions reduce labor's relative share and may reduce labor's absolute share if they are sufficiently labor saving. However, such inventions, the only kind which are really dangerous to the real income of labor,[38] are assumed to be uncommon.[39]

Frequency of Induced Inventions

The impression conveyed in the economic literature is that induced labor-saving inventions are of frequent occurrence. As a matter of fact, the conclusion that *most* of the labor-saving inventions which do occur must be of the induced variety follows as a logical deduction from the definitions and postulates set forth at the beginning of this chapter. We have seen that autonomous inventions are conceived of as having no particular bias, and therefore cannot contribute to any plurality of labor-saving over capital-saving inventions. The actual predominance of labor-saving inventions, as compared with capital-saving inventions, appears to be considerable. There are, of course, such discoveries as the wireless—which has become the stock illustration of a capital-saving invention. Moreover, in recent years, inventions increasing the durability of capital equipment have increased in frequency. Such inventions likewise save capital. However, compared to the great outpouring of labor-saving inventions, capital-saving discoveries are relatively few in number. But if capital-saving inventions are comparatively few, then *autonomous* labor-saving inventions must also be few in number, since autonomous inventions, by definition, are assumed to be free of bias. It follows, therefore, that the observed large plurality of labor-saving over capital-saving inventions must—according to this theory—be attributable to induced labor-saving inventions.

Does this conclusion as to the ubiquity of the induced labor-saving invention correspond with actual fact? In a series of field surveys conducted by one of the writers in 1941, 1944, and 1945, entrepreneurial opinion was sampled concerning the degree of sensitivity exhibited by technological discovery to changing factor costs.[40] On the whole, most of the research men and employers consulted were of the opinion that relatively few important inventions are made as a result of changes in wage rates relative to interest costs. Moreover, viewing the process of invention from the point of view of commercial exploitation, employers doubted that there was any close relation between relative factor prices and the stream of invention, whether the inventions flowed from corporate research laboratories, independent investigators, or the efforts of enterprising foremen. Employers stressed that they were more alert to institute production changes when wage rates rose—wage increases acted as a sort of economic detonator which spurred even backward employers to renewed efforts to reduce costs. But this influence seems to have more relevance to the rate of introduction of *known* improvements than to the tempo of technological *discovery.*

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[38] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 126.

[39] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 126.

[40] The survey covered 100 employers and research directors in a variety of industries and competitive positions. Sixty-five of the group were consulted by personal interview; the remainder were reached by mailed questionnaires, in order to secure a better geographic distribution. The survey is, of course, open to the objection that the sample is small, and further, that the subject of the investigation does not lend itself easily to empirical inquiry. Invention is a group process which extends over a long period of years. Conversations with one, two, or three men who have worked on a particular new product or process may fail to reveal the motives which induced the original research endeavor. Nevertheless, inductive study in this field is not without value, particularly as it suggests new approaches and problems for theoretical analysis.

This distinction is an important one. As a matter of fact, it is possible that the notion of the frequency of induced invention rests on a confusion of the process of invention with mere adaptation to changed cost conditions within a given technique. When the relation of wage rates to interest costs changes, entrepreneurs find it profitable to alter methods of production, but this is not the same as a change in the volume of new discoveries. As one writer pointedly remarks:

> When we say that "technical knowledge is given," we do not mean that every entrepreneur has blueprints in his pigeon-holes of every type of machine which it would be profitable to use at each conceivable rate of interest. We merely mean that there is a certain body of technical knowledge which will lead to a certain adaptation of technique to circumstance.[41]

Such adaptations are effected with a given production function, whereas invention alters the whole pattern of isoquants in individual firms.[42] There is little doubt that wage pressure stimulates the former type of change in operating technique, but inductive investigation suggests the significance of the stimulus is much less when applied to the process of *invention.*

However, while employers minimize the importance of the "induced" invention, as defined above, they point out that the pressure of costs may "induce" invention in another, and broader, sense. As a matter of fact, *most labor-saving inventions are "induced,"* but they are induced, not by *changes* in relative factor prices, but simply by the *continuing high price of labor.* If in the future, the rate of population increase should exceed the rate of capital accumulation, this does not necessarily mean that there will be any lessening in the frequency of labor-saving inventions relative to capital-saving inventions—though such a diminution would seem to be forecast, on these premises, by application of a theory which places emphasis on *relative* changes in factor prices. The fact remains that declining unit labor costs have not lessened management's interest in reducing them further. For example, the textile industry in the thirties was characterized by rapid technological change designed to save labor at the same time that the wage level was falling. Even at the lower wage level, labor was still a sufficiently large cost to induce management to discover means to economize in its use. As long as labor cost remains a large item in the expense of modern business operation, labor-saving inventions will still predominate, whether wage rates rise relative to interest rates or not. While labor-saving inventions induced by changes in relative factor prices do occur, inductive investigation suggests they are less common than might be supposed. It is probable that changes in relative factor prices would play a more dominant role in the motivation of invention if labor costs and capital costs bulked equally large in total costs, but since most production costs are labor costs,[43] invention is naturally biased in this direction regardless of fluctuations in the ratio of prices of the factors.

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[41] Joan Robinson, *Essays in the Theory of Employment* (London, Macmillan and Company, 1937), pp. 134–135, note 1.

[42] Looked at another way, adaptations enter into the determination of the elasticity of substitution, whereas inventions alter it. See J. Robinson, *Essays in the Theory of Employment* (London, Macmillan and Company, 1937), pp. 134–135, note 1.

In view of the fact that payrolls constitute such a large element in business expense, it is understandable why economy in the use of labor is a major item on industry's program for technological improvement. Moreover, the labor-saving improvement is probably easier to devise than the capital-saving improvement simply because the large proportion of labor costs and manual operations in individual manufacturing establishments suggests more ways and means by which use of this factor can be economized. Modern industrial invention embodies continuous extension of mechanization, lightening of the arduousness of work and progressively increasing the scope of automatism in operation. By their very nature, these characteristics of invention involve savings of labor. Most inventions are labor-saving[44] because invention represents the efforts of man to make life fuller and easier, and achievement of this goal typically requires the substitution of mechanical power for hand power. Thus contrary to the definitions stated at the beginning of this chapter, it would seem that *both* induced and autonomous inventions are biased in the labor-saving direction, the former because of the major importance of labor cost in business expense, the latter because of the fundamental nature of the process of invention.[45]

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[43] In 1921, wages and salaries comprised 25.3 per cent of the value of production in manufacturing, whereas interest costs amounted to only 1.8 per cent; in 1939, the corresponding figures were 30.8 per cent and .8 per cent. See *Economic Almanac for 1944–45* (New York, National Industrial Conference Board, 1944), p. 196. These figures count materials as a separate cost, rather than breaking them down into their constituent elements of which, of course, labor is the major portion.

[44] "Most" is intended as a comparison only relative to capital-saving inventions. When all inventions are considered, including those which improve the product, labor-saving inventions today represent a decreasingly important portion of the total.

THE THEORY OF THE VERY LABOR-SAVING INVENTION

The next point involves the concept of what for convenience has been called the *very* labor-saving invention—the invention which may reduce not only labor's relative share in the real national income, but its absolute share as well. Such innovations, it has been assumed, could only be of the induced variety. Thus, it has been said:

> . . . neither a great activity in autonomous invention nor a high elasticity of substitution has *any* tendency to reduce the real income of labour. The *only* kind of invention which is likely to have this effect is that . . . which is inspired by a change in relative factor prices but which would have been profitable to apply even before prices changed.[46]

Since induced labor-saving inventions of the very labor-saving type are assumed to be rather exceptional, many economists have therefore concluded that labor has little to fear from technological progress *per se.*

This sanguine view does not seem warranted by the facts. In the first place, there is no reason why an invention which is *not* inspired by a change in relative factor prices cannot also reduce the absolute share of labor. From the standpoint of the dislocation produced, a labor-saving invention which was *not* induced by a change in relative factor prices, but which it would have been profitable to adopt even at a lower level of wage rates, is just as dangerous as one which *was* induced by a change in relative factor prices, but which it would have been profitable to adopt even in the absence of the relative increase in the price of labor. Among those new developments included in the autonomous category there may be a device, such as the mechanical cotton picker, whose discovery is not primarily attributable to changes in relative factor prices, but whose application would lead to such a large displacement of labor with a relatively small additional outlay for capital that labor's real wage might suffer in consequence. Available evidence suggests that invention of the mechanical cotton picker was motivated not by relative changes in factor prices, but simply by the desire to lighten the arduousness of a very laborious task. John Rust, inventor of the cotton picker, worked with his brother on a cotton plantation and was compelled to devote long hours of back-breaking labor to picking cotton by hand. Being mechanically minded, he sought and discovered an easier way of doing the job. In this case, as with many great inventions, the desire to save labor and to make the job easier was the dominant motive unrelated to changes in factor prices.[47]

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[45] Mrs. Robinson also finds Hicks's proposition regarding the lack of bias in autonomous inventions "hard to accept," and points out that "the development of human methods of production from the purely hand-to-mouth technique of the apes has been mainly in the direction of increasing roundaboutness." (*Essays in the Theory of Employment,* London, Macmillan and Company, 1937, p. 134, note 1.)

[46] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 128. Italics not in original.

The labor-saving invention which is induced not by changes in factor prices, but simply by the large cost of labor may reduce labor's absolute share in the real national income, though it does not come under the definition of an induced invention. If an invention has very great labor-saving potentialities, but yields a comparatively small increment to real national income, the consequent large reduction in labor's relative share may reduce its absolute share and its real wage. This maxim is true whether the invention was induced by a rise in wage levels, or by a new general advance in metallurgy. The broadening of the concept of the very labor-saving invention suggests the possibility that occurrence of this type of improvement may be more frequent than some theorists had supposed.

Recognition of the ubiquity of labor-saving inventions which would have paid even at lower levels of wage rates calls attention to a fundamental shortcoming of the concept of the very labor-saving invention; namely, that it fails to distinguish clearly between inframarginality and large labor-saving capacity. A labor-saving invention is marginal when its introduction is just made profitable by existing levels of wage rates and interest costs. In other words, if wage rates had been slightly lower, employers would not have considered it worthwhile to utilize the improvement. Conversely, a labor-saving invention may be said to be inframarginal when it would have been profitable to employ it even if wage rates had been lower relative to interest costs. But this definition is—as we have seen at the outset of this chapter—the same as is applied to explain the concept of "the very labor-saving invention." While there is nothing wrong with the latter definition, it is clearly erroneous to contend that such improvements, which would have proved profitable even at a lower level of wage rates relative to interest rates, are "not very common."[48] As a matter of fact, the inframarginal element is common in all phases of economic life. For example, although market price is determined by marginal sellers and buyers, most of the buyers and sellers in the market would normally be willing to make an exchange at other than the final market price. The same considerations apply to the effect of changes in the rate of interest upon the rate of mechanization. As one writer has pointed out:

> In the great majority of cases the new instruments are not marginal, in the sense that they would have been installed at an earlier date had the

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[47] See Eliot Pratt, "Machine Age in Dixie," *Common Sense*, **14**:13–15 (1945).

[48] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 126.

> rate of interest been lower. They usually embody improvements which may raise that yield substantially above the margin.[49]

Similarly, most inventions are inframarginal with regard to their cost-saving capacity—that is, they produce a sufficiently large saving in cost so that the profitability of their introduction is assured even if wage rates were to fall relative to interest rates. Probably only a small proportion of inventions are induced by a change in the ratio of prices of the factors. The notion that induced inventions are the dominant type has been adopted merely as a means of explaining the predominance of labor-saving inventions. As has been pointed out, this circumstance can be explained on other grounds fully consistent with the admission of the prevalence of inframarginal improvements.

The second part of the definition of a very labor-saving invention relates to improvements which reduce the absolute marginal product of labor. Actually only a small proportion of inframarginal improvements will have a sufficiently large labor-saving capacity to have this effect. In other words, an invention can be such that its introduction would have been profitable at lower wage rates, without necessarily reducing the absolute marginal product of labor.[50] Whether or not a labor-saving invention will reduce the absolute share of labor in the real national income depends upon (1) the labor-saving capacity of the invention; (2) the size of the increment which it produces in total output; and (3) the ease with which the displaced labor can be reabsorbed into other parts of the economy. Because large labor-saving capacity is an indispensable condition of an invention which will reduce the marginal product of labor, such an invention will always be inframarginal, but not all inframarginal inventions pose the same threat to labor.[51]

LABOR-SAVING INVENTION AND THE LEVEL OF REAL WAGES

How common are inventions which lower labor's aggregate real wage? In any classification and evaluation of the effects of inventions, it is very important to be specific with regard to the time period which is being considered.[52] The definition of a labor-saving invention stated at the outset of this discussion applies to the effect of invention upon the relative share of labor, *the amounts of the factors being unchanged.* The final result, when the quantity of capital has had time to adjust to the changed yield, may be quite different. For example, if we consider the case in which the amount of capital is adjusted to the new technique so that full equilibrium is attained (with zero additional investment) then, if invention is labor-saving, the relative shares will be unchanged if the elasticity of substitution is less than unity.[53] Similarly, in full equilibrium, even a *very* labor-saving invention may *increase* the real wage, if account is taken of the increase in capital per head required to restore equilibrium between the marginal efficiency of capital and the interest rate.

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[49] R. G. Hawtrey, *Capital and Employment* (London, Longmans, Green and Company, 1937), p. 259.

[50] It is only fair to state that Hicks does not claim that *all* inventions which would have been profitable at a lower wage level will reduce the marginal product of labor. His discussion of the very labor-saving invention is ambiguous rather than erroneous. His exact statement is as follows: "But it is certainly quite conceivable that a change in relative prices will stimulate invention to do more than this—to discover methods which, if they had been known, would have paid even before prices changed. Now induced inventions of this type (if they are labour-saving, as we may suppose generally to be the case) may reduce not only the relative share of labour, but also its absolute share." (*Theory of Wages*, London, Macmillan and Company, 1932, p. 126.)

[51] Capital-saving inventions, which raise the marginal product of labor relative to the marginal product of capital, can also be inframarginal.

One may distinguish three stages in the process of innovation: the "gestation" period during which the new capital equipment is being built; the "operation" period in which the new equipment is introduced and the displaced labor is absorbed elsewhere in the economy[54]; and the stage of full equilibrium in which capital accumulation brings the marginal productivity of capital again down to its former level. The first stage will almost always raise the absolute marginal productivity of labor, because new investment increases the demands for labor. The second stage may witness a decline in the real wage of labor if the improvement makes only a small addition to the real national income, but by virtue of its large labor-saving capacity drastically reduces labor's relative share in the income. The third stage will almost always witness a rise in the aggregate real wage of labor, even in those cases where the very labor-saving invention had reduced labor's absolute share at the second stage. The greater the decline in the relative share of labor, the greater the increase in the return to capital. Consequently, the more labor-saving an invention, the more favorable it is to the yield of capital; and since a rise in the yield of capital will make investment more attractive, ultimately, the demand for labor[55]—and therefore its marginal product—will be increased by the additional capital accumulation which can be traced to the original invention.[56]

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[52] Oscar Lange recognizes the importance of the time element by incorporating it in his definitions. For example, he classifies an invention as "using" or "saving" a given factor at the date "t" according as it increases or diminishes the demand planned for that date. Thus, the same invention can be currently steel-using, labor-saving after one year, etc. See O. Lange, *Price Flexibility and Employment* (Bloomington, Indiana, The Principia Press, 1944), p. 73; and also, "A Note on Innovations," *Review of Economic Statistics*, **25**:19–25 (1943).

[53] Joan Robinson, "The Classification of Inventions," *Review of Economic Studies*, **5**:139 (1938).

[54] This classification follows Lange, who distinguishes two periods: a factor-using period of "gestation" and an output-increasing period of "operation" of the innovation. (See O. Lange, *Price Flexibility and Employment,* Bloomington, Indiana, The Principia Press, 1944, p. 74.) However, Lange appears to give inadequate attention to the third period in which an increase in capital per head is necessary to restore equilibrium.

This is all very well, the average labor leader will say, if one is willing to wait for the long run. The fact remains, however, that the high labor-saving capacity of inventions in recent years has considerably aggravated the problem of technological unemployment and raised a real threat to labor's job opportunities in particular industries. Recognition of this fact is in nowise inconsistent with the contention that labor benefits from invention, both in the short period and in the long run. For example, it cannot be denied that without the investment in new labor-saving technology which took place during the thirties, total employment would have been much lower than it actually was; for in the short period, the construction of labor-saving apparatus almost always creates a demand for more labor than it displaces.[57] The important point to recognize, however, is that *very* labor-saving inventions do not necessarily require any more capital investment than less labor-saving improvements. The labor-saving capacity of an invention is dependent upon the technical ingenuity involved rather than the capital investment required. For example, an electric eye apparatus which makes possible almost 100 per cent automatic operation may require only a small capital outlay, whereas an improvement which displaces comparatively few workers may entail considerable investment.

Consequently, it is possible for the average labor-saving capacity of invention to increase without this change being reflected in an increase in the level of capital expenditures. Thus, if such a change occurs—as some labor leaders maintain has occurred over the last two decades—there need be no increase in employment opportunities in the "gestation" period, but the unemployment problems of the "operation" period will be considerably aggravated. There will be some inventions which are very labor-saving and which actually tend to reduce the real wage of labor as a whole. But the great majority of inframarginal labor-saving inventions—if they are endowed with a high labor-saving capacity—will simply produce a high rate of what economists call "frictional unemployment." If most labor-saving inventions were marginal improvements as orthodox analysis suggests, frictional unemployment would not create much of a problem, for the labor displaced by marginal inventions is small in amount, and therefore the difficulties of transfer and reabsorption are minimized. If, however, it is recognized that most inventions are inframarginal, and that their average labor-saving potential is high, then the frictional unemployment which results takes on new significance. When 500 to a 1,000 persons are thrown out of work in a single enterprise by an individual invention, such as the strip mill,[58] and when the ages and skills of these men are such that they cannot easily be reëmployed elsewhere, it seems more realistic to drop the term "frictional" and recognize frankly that this is a problem of technological unemployment attributable to the high labor-saving capacity of recent technological change.

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[55] Mrs. Robinson is pessimistic concerning the long-run repercussions of invention upon employment. Thus, she states, "There appears to be, from the long period point of view, very strong ground for the popular opinion that inventions tend to reduce employment." (*Essays in the Theory of Employment*, London, Macmillan and Company, 1937, p. 135.) This conclusion, however, rests upon a questionable assumption, namely that if labor's relative share in the national income is reduced, the level of equilibrium output will necessarily diminish, because of the increase in thriftiness.

[56] Or, as Hicks points out, even if economic progress does cause a decline in the equilibrium level of real wages, this would only be temporary; "enlarged profits would mean new saving; increased capital would raise the level of real wages again." (*Theory of Wages*, London, Macmillan and Company, 1932, p. 130.)

[57] The effect of invention upon employment in the short period will depend upon the extent to which funds expended represent new investment rather than depreciation allowances of old plant.

This does not mean that unions should oppose invention. Such a policy would be short-sighted, for despite the existence of technological unemployment, the level of employment would probably have been lower had it not been for the added investment in new technology. Labor has a real interest in promoting technological progress, because an active technology is needed to provide outlets for new investment, and adequate new investment is labor's assurance of continued employment and rising real income. The remedy lies in public recognition of the fact that labor's indictment of machine displacement has not been entirely unfounded; that many new inventions are very labor-saving; and that if it is public policy to encourage technological progress, provision should be made to alleviate the distress caused among those labor groups which are most directly affected by technological change.

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[58] See H. J. Ruttenberg, "The Big Morgue," *Survey Graphic*, **28**:266–269 (1939).

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Wage Rates and Mechanization

In the preceding chapter, we were primarily concerned with research and invention—the discovery phase of technological progress. We examined the factors which motivate discovery of new methods and new mechanical devices. But not all inventions which are discovered and perfected in the research laboratory find commercial utilization. In this chapter we shall turn our attention to the application phase of technological progress and consider the factors which determine whether or not inventions taking the form of new and improved machinery will be introduced by industry.

Wage Pressure and Mechanization

The doctrine of marginal productivity postulates that if the price of labor rises relative to the price of capital, employers will find it profitable to alter the proportion of combination of the factors and will substitute capital chiefly in the form of machinery for the more expensive labor. This important principle is essential to an understanding of the factors determining the ratio of combination of labor and capital in the productive process. However, a shortcoming of this theory when applied to problems of mechanization in industry is that it was essentially designed to explain the process of substitution uncomplicated by a changing technological background. It is true that some of the standard expositions attempt to take account of technical change by considering equilibria at two widely separated points of time.[1] But this methodological device, while unobjectionable for purposes of explanation of the determinants of factor-combination ratios in the equilibrium positions, has definite limitations when it is the process of dynamic technological improvement which is subject to scrutiny. For most mechanization, as it occurs in the business world, is not simple substitution against a static background, but rather the embodiment of new investment in improved technology.

Technological progress in modern industry is a stream which continues to flow whether wage rates rise, fall, or remain constant relative to interest costs. For example, mechanization proceeded rapidly all during the twenties, although hourly earnings of labor, wholesale prices and long-term interest rates remained fairly stable.[2] Thus, unlike substitution in a stationary state, the trend toward increasing mechanization would continue in industry today even if wage rates were permanently frozen at their present levels. A major objective of mechanization, which takes on particular importance in a dynamic economy characterized by monopolistic competition, is improvement of the product. It is significant that the major share of industrial research budgets is devoted to projects involving product improvement and development. The same emphasis seems to characterize general technological improvement within the plant. In many industries, mechanization has become a necessary condition of satisfying consumer demand. Thus machines may be introduced because they are more adaptable to sharp fluctuations in demand and so can better provide for the varying needs of customers; or introduction of new machinery may be a prelude to an advertising campaign which boasts of a product "untouched by human hands." Since this appears to be what the public wants, progress in this direction proceeds even if the result is to *raise* costs per unit. Machine-made products are generally more dependable, more durable, more highly standardized, and therefore more acceptable to the consumer. These advantages are of such telling importance in the struggle for the consumer's dollar that the effect of improvements on labor costs is frequently a minor consideration.

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[1] J. R. Hicks, *Theory of Wages* (London, Macmillan and Company, 1932), p. 113.

Thus in the dynamic environment of modern industry, where not only costs but also products are subject to continuous change, the problem of mechanization is posed in a different setting than in the usual productivity analysis. The important question from the point of view of the union leader, the government official, or the student of labor problems now becomes not whether wage increases will stimulate mechanization—no one denies that—but how important the stimulus will be. How important is the stimulus of wage pressure in comparison to other factors in setting the tempo of technological progress? Under what circumstances is wage pressure most likely to stimulate mechanization? What are the factors which in a given industry, under dynamic conditions, determine whether wage increases secured by a union will lead to displacement of labor by machinery? Will union wage pressure materially alter the rate of new investment in improved machinery for the economy? These are the questions to which we shall seek answers in the following discussion.

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[2] Average hourly earnings in manufacturing, mining, and steam railroads were 54.7 cents in 1923 and in 1931, although there was a rise of a few cents in the intervening years. Witt Bowden, "Wages, Hours, and Productivity of Industrial Labor, 1909 to 1939," *Monthly Labor Review*, 51:524 (1940). Bond yields (Moody's index of AAA bonds) declined less than one per cent from 1921 to 1928, and then rose slightly in the latter part of 1928 and in 1929. See J. Schumpeter, *Business Cycles* (New York, McGraw-Hill Book Company, 1939), vol. 2, pp. 813, 875; for trend of wholesale prices, see vol. 2, p. 693.

SUBSTITUTION IN A STATIC ENVIRONMENT

To understand a mechanism in motion, one must first understand it at rest. Let us turn first to a consideration of the effect of a wage increase in the individual firm when the state of the arts is assumed to be constant. According to marginal productivity doctrine, as we have seen in Chapter 11, each factor will be utilized in the firm up to the point at which the relation of its marginal product to its cost is equal to that of the other factors employed in the organization.

Thus, if only two factors are employed: labor (L) and capital (C), then

$$\frac{\text{Marginal product}_L}{\text{Marginal cost}_L} = \frac{\text{Marginal product}_C}{\text{Marginal cost}_C}$$

A rise in the marginal cost of labor (the denominator of the first fraction) will lead to a substitution of capital for labor until equality of the two ratios is restored. If the entrepreneur is in a monopsonistic position (i.e., if increased employment involves higher factor cost), marginal cost of the factor to the buyer will exceed the price of the factor, whereas to an employer in a competitive position in the market for factors, the price and marginal cost of factors will be equal. In both situations, however, the proportionality of marginal product to marginal cost is essential to attainment of maximum profits by the entrepreneur.

The doctrine of substitution has generally been posited as a long-run tendency, since it is only when capital is fluid that marginal productivity principles can exert their full influence. Furthermore, it can be assumed that various rigidities—institutional and economic—which impede the free working of economic forces in the short period, will be of less consequence in the long run. It has generally been held, therefore, that although wage increases may not lead immediately to substitution of machinery for labor, eventually a day of reckoning comes when the higher labor costs finally have their effect. Undoubtedly this theory affords a satisfactory explanation of many technical changes which are made from day to day in modern industry: for in every industry there are machines which are known to management, but which are not utilized, because "they do not pay." A rise in wage rates may be the factor which produces the necessary margin of profit from operation of such machines, so that they will be purchased to displace the more expensive labor. Since wages constitute an important cost in most business enterprises, it is clear that wage increases must exert some influence upon the rate of introduction of machinery and improved processes. The higher costs are, the more anxious are employers to reduce them. Improvement in technique usually affords the most direct method of reducing the wage bill, short of cutting wages or curtailing output and employment.

MECHANIZATION UNDER DYNAMIC CONDITIONS

When technological progress is assumed to be present, the theory of substitution requires some modification. At a given state of technology, the isoquants[3] of a firm are given and movements along the isoquants induced by changes in the relative prices of the factors are the major determinants of the intensity of mechanization. When technological progress is assumed variable, however, the one factor, capital, now becomes the embodiment of a dynamic investment which cannot be confined to a given isoquant. Hence, the effect of movements along a given isoquant tends to be overshadowed by changes in the whole pattern of isoquants, due to technological advance. Whereas in a stationary state of the technical arts, wage increases *must* result in the substitution of capital for labor if the optimum proportion of factors is to be achieved, by contrast in a dynamic economy, wage increases are simply one of a number of factors which may stimulate the rate of introduction of new machinery.

In a stationary state of the arts, a wage increase induces substitution of machinery which would not otherwise be introduced. On the other hand, in a dynamic economy, introduction of new machinery does not wait upon wage increases, but goes on continuously as invention opens up new methods of reducing cost and improving products. Naturally some substitution in accordance with marginal productivity principles occurs even in a dynamic economy, but since most new machinery is improved machinery, the relative significance of the stimulus afforded to its introduction by wage increases is diminished in importance.

THE LABOR-COST-SAVING CAPACITY OF IMPROVEMENTS

The important new determinant which must be taken account of in the dynamic process of mechanization is the labor-cost-saving capacity of improvements. When invention is active, the mere fact that a new machine is labor-saving does not necessarily imply that an increase in labor cost will hasten its introduction by business enterprises. This will probably be so, however, in those cases where the labor-cost-saving capacity of the new machine is relatively small, since in these cases a rise in wage rates can make the difference in its profitable utilization. A new machine, which is adopted as a result of an increase in wage rates and which it would not have been profitable to introduce if wage rates had not risen, may be termed a "marginal" improvement. The marginal improvement has its counterpart in the process of technological *discovery* in the induced marginal invention, which we considered in the preceding chapter. It would seem that neither the induced marginal labor-saving invention, nor the marginal improvement, is a common type.

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[3] An isoquant of a firm may be defined as the locus of those combinations of factors of production which under given technical conditions would give the same physical quantity of production.

The reader is cautioned that the term "marginal" is used in this chapter in a somewhat different sense than is customary in traditional substitution theory. In the absence of technological progress, capital will be substituted for labor until at the margin it is a matter of indifference whether an additional "dose" of capital is combined with the labor force.[4] The last machine so used will be the marginal machine and any lesser number of machines would be an inframarginal use. Thus, if 100 machines are required to be used with a given labor force to attain equilibrium conditions, the last machine is the marginal machine whose use brings down the marginal productivity of capital to an equilibrium ratio with labor. If the machines are all alike, any one machine can be substituted for the other, and hence, with 100 machines in use, any one machine can be considered the marginal machine. But if less than 100 machines were used in conjunction with the labor force, the marginal productivity of the last machine so used would exceed the equilibrium ratio. In this sense, all machines short of 100 are inframarginal. It should be observed that the existence of a margin under these circumstances depends upon the fact that the application of additional machines reduces the marginal productivity of capital.

In a dynamic economy, however, the concept of marginality assumes a somewhat different significance. In analyzing entrepreneurial purchases of new improved equipment, we shall define a "marginal improvement" as a *new* machine or device which is adopted as a result of an increase in the price of labor and which it would not have been profitable to introduce if wage rates had not risen. Here we are considering the range of cost-saving capacities of various machines not as they are arrayed at a given point in time, but rather as they appear, one after the other, on the economic horizon, as part of the continuous process of technological development. These machines are not alike. As each follows the preceding one in point of time, it bears the imprint of the latest scientific innovations. If there is a margin, it is a margin which is in continuous flux over time and each new machine as it comes on the economic scene brings with it its own margin. Whereas in a stationary state of the arts, the addition of each successive machine reduces the profitability of use of capital in comparison with use of labor, in a dynamic economy this tendency need not become evident if technological advance maintains or increases the cost-saving capacity of new mechanical methods.

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[4] For the classic example of the "dosing" technique in marginal productivity analysis, see J. B. Clark, *Distribution of Wealth* (New York, The Macmillan Company, 1902).

Study of industrial development affords ample evidence that many new improvements are not marginal as so defined. On the contrary, the cost-saving capacity of most *important* changes in technique is sufficiently great so that they would be introduced at much lower wage levels. If the flow of technological progress contains a large number of such improvements, the importance of wage increases as a stimulus to changes in technique is reduced in importance. Whether or not wage increases will stimulate mechanization is then seen to depend upon the size of wage adjustments on the one hand, and the cost-saving capacity of improved machines on the other. The relationship of wage pressure and the rate of mechanization will, of course, be influenced by other factors: the state of competition, the size of profit margins, the proportion which labor costs form of total costs, and the nature of the operation which is being mechanized. For example, some operations are particularly sensitive to the level of wage rates, since they can be equally well performed by hand labor or machinery. Other operations are already so highly mechanized, as for example, carton-filling, that higher wages cannot produce much change in the degree of mechanization. Still other operations are subject to rapid technological change induced by other factors so that higher wages do not make much difference in the rate of mechanization but simply divert to labor a larger share in the gains of increased productivity which would have come about anyway.

On the other hand, it would be erroneous to conclude that the cost-saving capacity of most improvements is so great that the level of labor costs is of no importance in entrepreneurial calculations. Even so highly mechanized an operation as carton-filling can be made more labor-saving if rising wage costs warrant it, by improving the durability of the machinery, thus reducing the cost of labor needed for repairing and maintaining the machinery. Moreover, technological progress is not an unbroken succession of strip mills and cotton pickers. Most technological improvements are typically small and unspectacular. Technological progress may be compared to a pyramiding of countless small improvements one upon the other, much as a coral island grows from the deposition of countless minute bodies. A basic invention alters the mode of production; then changes improving and modifying the original invention follow in quick succession. As continual modifications are made in the original improvement, the savings in cost effected by successive alterations tend to diminish.[5] A screw is changed here, a new attachment is added there. Finally, a point is reached where further modifications of a particular model of a machine become purely frivolous. What determines this limit? While many small variations will be made regardless of cost considerations, if by doing so the product is improved, ultimately it is labor cost, as the major component of variable costs, which determines the margin of profitability of making further modifications of this type.

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[5] The cumulative effect of the numerous improvements may be larger than that of the first or of the basic change, but since the later modifications are spread gradually over time their impact upon employment and technological conditions in the industry presents less of a problem of adjustment.

This is the picture of the average technological change—unspectacular, by itself relatively unimportant, but *in toto* this slow building has changed the façade of American industry. For this type of technological change, the wage level is frequently a significant consideration. An increase in the wage level prolongs the extent to which these small modifications can be pushed. With regard to such changes, the word "margin" has meaning, for the changes effected are small and therefore an increase in the wage level may move plans for such improvements from the wastepaper basket to the drafting board.

Improvements with Large Labor-Saving Capacity

The type of mechanical improvement, however, which creates the major problem of displacement of labor and of personal and social readjustment is not ordinarily of this innocuous variety. When labor demands adoption of a program of dismissal wages and broadened unemployment compensation to protect the worker from the incidence of technological change, it is thinking not of the lathe attachment which makes it possible for an operator to cut five extra tools an hour, but rather of the new butt-weld mill which displaces an average of 100 workers per mill, a reduction of 75 per cent of the force of the old hand mill.[6] Improvements such as the latter break upon the industrial scene with profound repercussions to the ratio of combination of labor and capital. They do not build up gradually like our coral island; instead, they erupt a new island above the surface of the economic horizon. While resting upon the accumulated technological knowledge of the past, these inventions embody a new approach to the problem of reducing costs of production. Improvements of this type usually have such a large cost-saving capacity with regard to labor cost and other costs of production that normal variations in wage levels do not affect their rate of adoption. Since the very nature of such advances in technique implies change and disequilibrium, there is no more reason to suppose that the cost-saving capacity of a typical improvement will be marginal at the prevailing wage level than there is to expect that profits will fall to zero in an economy in which new investment opportunities constantly present themselves.

Of course, even a new strip mill may be marginal in certain uses, as for example, on small orders. Because of the large capital cost involved, it does not pay to build a continuous rolling mill if only a small volume of business is anticipated. In theory, there will be a certain volume at which it will be a matter of indifference to the entrepreneur whether or not he builds the mill. At this volume, labor costs on the new and old methods of production will be a crucial consideration and a rise in wage rates will induce an entrepreneur to invest, although before the wage change he had been on the margin of indifference. Admission of this possibility, however should not be allowed to obscure the fact that most of the sheet steel mills which were constructed in the last decade would have been built even if wage rates had been much lower. Rising wage rates had little to do with the rate at which industry adopted this basic change in the technique of steel production. The cost-saving capacity of the automatic mill for large-scale production of sheet steel was so great that the decision to invest in a new mill would not ordinarily rest upon a marginal[7] calculation of labor costs under the new and old methods of production. The same is true of other major innovations which embody a new approach to the problem of reducing costs of production. Although the ratio of labor costs to capital charges, taken in connection with expectations of sales volume and other pertinent considerations will ultimately define and limit the area of application of the improvement, the general rate of adoption of important labor-saving innovations in the specific use for which they are designed will not ordinarily be affected by changes in wage rates.

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[6] *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power* (Washington, 1940), Pt. 30, p. 16504.

That some new machines are marginal in application whereas others are highly cost-saving has long been recognized by unions and reflected in their policies regarding technological progress. If the advantage of the new machine is not too great, unions frequently choose to compete with it by reducing wage rates on the old process, thus prolonging the life of their old skills. But if the superiority of the new improvement is too great, unions recognize the futility of competition through wage reductions, and prefer to attempt to control the new machines and the men that operate them. For example, when the "semiautomatics" were introduced in the bottle industry, the glass bottle blowers union attempted to compete with the machine by accepting a 45 per cent reduction in the hand price on fruit jars and by removing restrictions on output of hand workers, but these concessions proved insufficient and the union was compelled to abandon this policy for one of control.[8] On the other hand, the same union at a later date was able to produce some retardation in the spread of the Owens automatic bottling machine by accepting a 20 per cent reduction in wage rates.[9] In this case, the superiority of the automatic machine on small orders and certain types of bottles was small and the level of wage rates was an important determinant of the new machine's operating profitability. In many cases, however, the cost-saving capacity of new machines has been so great that no reasonable wage reduction could have effectively halted the introduction of the new process. Thus, when automatic machinery invaded the iron mold department of the flint glass industry, the union refused to consider a wage reduction on the ground "that no wage reduction would remedy that situation."[10] Even large wage reductions could not have enabled old-style mills to compete with the new continuous strip mills in the steel industry. When 1100 steel workers were thrown out of work in Ellwood, Indiana, by the shutdown of an old-style mill, the workers offered to work for 20 per cent less wages if the company would resume operations. "The offer was rejected for several reasons: one being that even if the men worked for nothing, the company's strip mills could produce a superior product at lower costs."[11]

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[7] I.e., marginal in the sense that a small change in wage rates would alter the decision to invest.

[8] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 232.

FREQUENCY OF IMPROVEMENTS WITH HIGH LABOR-SAVING CAPACITY

Recent statements of union leaders emphasize that such innovations capable of large-scale displacement of labor have become increasingly common occurrences in the stream of technological progress.[12] Whether invention has, in fact, become more labor-saving in recent years can only be determined through further empirical investigation. Nevertheless, there is considerable evidence that many recent technological improvements have been endowed with such large labor-saving capacity that it would have been profitable to introduce them even at much lower wage levels. Not only management is of this opinion; a number of improvements which have achieved spectacular reductions in man-hour requirements come easily to mind. For example, in the steel industry, the continuous strip mill has reduced the total cost of labor per ton of tin plate by 61 per cent from $36 a ton on the hand mills to $14 a ton on the strip mills[13]; in the railroad industry, the scarifier and ballast leveler can do the work of 90 men[14]; in the cigar industry, the changeover from hand methods to machines in one company made possible manufacture of cigars at a total cost of $6.25 per thousand, whereas the wage rate alone for skilled cigar makers using hand methods had previously been $18.50 per thousand.[15] With regard to the future, directors of industrial research forecast that technological developments will be more, rather than less, labor saving than in the past.[16] Thus, the problem of dislocation of labor produced by innovations endowed with a high labor-saving capacity is not a transient phenomenon, but part and parcel of the high technical perfection of our present stage of industrial development.

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[9] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 234.

[10] American Flint Glass Workers Union, *Proceedings of the Fifty-First Convention* (Cambridge, Ohio, 1927), p. 93.

[11] See H. J. Ruttenberg, "The Big Morgue," *Survey Graphic*, **28**:267 (1939).

[12] See, for example, Philip Murray, *Technological Unemployment*, United Steelworkers Publication No. 3 (Pittsburgh, United Steelworkers, 1940), p. 30.

[13] H. J. Ruttenberg, "85,000 Victims of Progress," *New Republic*, **94**:37 (1938).

[14] *Monthly Labor Review*, **57**:448 (1943).

Union Organization and the Rate of Mechanization

This brief theoretical discussion affords some basis for estimating the effect of union organization upon the tempo of mechanization in American industry. When the problem of mechanization is viewed in the aggregate, the result would seem to be highly satisfactory from the point of view of the average union leader who must continuously press for higher wages. Those improvements which displace the most labor in particular industries are likely to be introduced without regard to ordinary variations in wage rates. These are the rolling mills, the cotton pickers, and other inventions which have a very great labor-saving capacity. The union leader thus can press for higher wages, justifying the demand on the ground that wage pressure will not affect the rate at which union members are displaced from their jobs, while the wage adjustments will divert to labor a larger share in the gains of increasing productivity.

On the other hand, those improvements whose cost-saving capacity is rather small and which are therefore sensitive to changes in labor costs are likely to be minor in effect so that the resultant displacement of labor is gradual and can be more easily absorbed. The union leader may reasonably calculate that if wage policy in such instances does produce displacement of labor it will be lost in the flux of changing business conditions or possibly may be controlled by union rules regulating layoffs.

For those stagnation theorists who may have hoped to find in union wage pressure a stimulus to new investment to replace the role of the expanding frontier and a rapidly rising population in the past, the theory here suggested holds but little promise. The type of change in technique whose rate of introduction wage increases are most capable of accelerating —the small changes which modify and improve basic innovations—are not the ones which involve large capital expenditures. It is the major innovation—the improvement which rather than modifying existing machines renders equipment obsolete and therefore requires expensive outlays for basic new models—that necessitates the greatest expenditure upon new investment. But by its very nature such an improvement effects a large saving in cost and therefore its rate of adoption by industry is not normally influenced to any significant degree by wage increases. Thus, in so far as its effect upon the rate of industrial mechanization is concerned, union wage pressure is not likely to provide any significant stimulus to new investment.

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[15] S. McKee Rosen and Laura Rosen, *Technology and Society: The Influence of Machines in the United States* (New York, The Macmillan Company, 1941), p. 235. The cost figures are from the books of the R. G. Sullivan Company.

[16] In a survey conducted by one of the writers, a questionnaire containing the following question was sent to a large number of directors of industrial research laboratories: "In comparison with innovations in the past, do you think current and prospective technological developments will be more labor saving or less labor saving?" Of a total of 38 replies received, 30 stated that technological developments would be more labor saving, 3 reported less labor saving, and 5 forecast no change.

Factors Affecting the Sensitivity of Mechanization to Wage Increases

Thus far, we have viewed the process of technological development in the abstract. This approach is useful both in clarifying the theoretical relationships involved and in making possible estimates of the effect of union wage pressure upon the aggregate of new investment. But for many purposes, it is the process of mechanization in the individual firm or industry—coal, steel, textiles—which is of greater interest. Certainly this is true for the union leader. And for the economist, analysis of the relationship of wage rates and mechanization in this narrower sector makes possible a more precise analysis and classification of the factors affecting the rate of application of new machinery. Thus he may wish to know whether wage increases are more likely to produce substitution of machinery for labor in large firms or small, in soap companies or coal mines, in competitive industries or monopolistic industries. In the following pages we shall direct attention to the various factors which determine the sensitivity of mechanization to wage increases in particular industries.

Magnitude of Wage Increases

In industries in which wage levels are very low, a large abrupt increase in wage rates will produce a corresponding alteration in unit labor costs and so exert a definite stimulus to mechanization. A large wage increase will make profitable certain methods not economical at the lower wage level. Furthermore, the increase in wage costs will compel more efficient operation and, hence, machines are likely to be installed which would have paid before but which were not purchased because of ignorance and inefficiency attributable to reliance on low wages as a means of competition. No doubt repercussions of this sort were engendered in the bagging, pecan-shelling, and other low-wage industries of the South, when the imposition of a 30-cent hourly minimum wage in accordance with the

Fair Labor Standards Act of 1938 resulted in a doubling and even tripling of wage rates.[17]

What is a "large" wage increase will, of course, vary with the temporal setting and particular circumstances in which the wage increase is made. A given increase may be "large" for a company in a tight competitive position, but of minor importance for a large company with ample profits. The same size wage adjustment will be viewed differently by management at different phases of the business cycle.

A 10 per cent wage increase would have been considered moderate in the automobile, steel, and coal wage negotiations of 1946, but a wage adjustment of approximately the same amount occurring in the less favorable economic milieu of 1937 was undoubtedly "sharp."[18] The large wage increases in the latter year, coming as they did in conjunction with the temporary balancing of the budget, strike threats, and inventory speculation, probably contributed to the collapse in 1938. Although the rise in labor cost may have produced some stimulus to mechanization, on the whole it seems likely that technological progress was retarded, because of the unfavorable reaction produced by the rise in costs upon profits and the disposition to invest.

Wage increases are in a sense a double-edged sword. While substantial wage increases are most likely to stimulate the introduction of labor-saving machinery, wage adjustments which are so large as to impair the incentive to invest will make management reluctant to risk capital in the business, and therefore reduce the rate of mechanization. Moreover, every large increase in cost, whether produced by a rise in the price of labor, or of other factors signs the death warrant for some marginal firms. Even in 1942, a highly profitable war year, 27 per cent of all manufacturing corporations reported deficits to the Treasury Department; in 1937, an average year by prewar standards, 54 per cent of the total showed deficits.[19] Thus, the number of marginal firms is by no means small and the damage that can be done to investment and employment by large cost increases which penalize border-line firms is considerable.

If high-cost firms which are eliminated by sharp rises in wage rates happen to be relatively new firms, the rate of technological progress is likely to suffer in consequence. For new firms and new industries have historically set the pace for technological advance. Of course, new firms may simply duplicate the products and production methods of established firms. Very frequently, however, as in the case of the automobile and aircraft industries and in the early commercial application of most revolutionary inventions, new firms embody the ideas which ultimately lead to the establishment of new industries. Yet upon their first entering the field, new firms are likely to have costs higher than those of their competitors, due to lack of production experience, inadequate purchasing connections, and similar factors. They are therefore likely to be quite vulnerable to sharp increases in cost attributable to union wage pressure or other causes.

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[17] It has been estimated that two weeks after the law went into operation, between 30,000 and 50,000 persons lost employment, 90 per cent of them being in a few industries in the South, such as pecan-shelling, tobacco stemming, lumbering, and bagging. See P. Douglas and J. Hackman, "The Fair Labor Standards Act of 1938," II, *Political Science Quarterly*, **54**:44 (1939), note 107. In England, too, minimum wage legislation stimulated mechanization. See D. Sells, *British Wage Boards*, Publication No. 77 (Washington, Brookings Institution, 1939), p. 325.

[18] Average hourly earnings in manufacturing increased from 59.7 cents in January 1937 to 65.8 cents in August 1937. U. S. Bureau of Labor Statistics, *Employment and Payrolls* (January 1937), p. 9; (August 1937), p. 8.

[19] J. Backman and M. R. Gainsbrugh, *Wages During the Transition Period* (New York, National Industrial Conference Board, 1945), p. 36.

Maintenance of a high volume of employment in the future requires that all possible encouragement be afforded to the development of new products, the growth of new industries, and the incorporation of new firms. The employment provided by a new industry extends not only to the men actually engaged in manufacturing the new product, but also to the jobs which are created in capital goods industries, service, transportation, and distribution. Therefore, the repercussions of cost changes upon the birth and bankruptcy rates of new firms may be among the most important effects of sharp upward wage adjustments.

The resultant need for moderation and restraint by labor in the exercise of its formidable bargaining power places upon the shoulders of labor's leaders a responsibility for economic statesmanship which practical union politics may make it very difficult for them to assume. As a matter of fact, the postwar belligerence of labor has demonstrated that in matters requiring moderation, union leaders often cannot control the rank and file membership. Moreover, even if the better informed and more conservative labor leaders were inclined to pursue a policy of moderation in wage demands, the pressure of internal union politics would act as a powerful deterrent to expression of such views. The more democratic the union, the more susceptible are union leaders to such pressures; for where representatives of dissident groups within a union are actively fighting for the positions of the incumbent officials, a rival who promises a 30 per cent increase can embarrass an official who suggests a compromise at 10 per cent.

RELATIVE IMPORTANCE OF LABOR COSTS

The sensitivity of the rate of mechanization (and of employment) to wage pressure will depend in part upon the importance of labor costs relative to other costs of production. Although disbursements to wage earners represent the major share of income for the economy as a whole, in the individual firm other expenses frequently bulk larger in importance. In many companies, particularly those in which the nature of the product lends itself to a high degree of mechanization in manufacture, labor costs represent less than 10 per cent of total costs. For example, it has been found that direct labor costs in a company producing drug supplies constituted only 3 per cent of sales; in a brush company 5 per cent; in a chewing gum concern 9 per cent.[20]

Over the economy as a whole, there is considerable variation among industries in the percentage which labor costs form of value of product. In anthracite coal, the percentage is 56.6; in metal mining 24.3; in iron and steel 19.9; in tobacco manufacture 5.2.[21] It seems likely that in firms where labor costs bulk large as an expense of production, wage increases will afford more of a stimulus to mechanization than in firms in which wage costs are relatively unimportant. If, for example, labor costs form only 10 per cent of total costs in a firm, an upward wage adjustment even of 50 per cent would produce an increase in total costs of only 5 per cent, and as a consequence would probably exert a less significant influence upon the tempo of mechanization than if labor costs bulked large as an operating expense.

In the coal industry, the districts of the west where wage rates were relatively high have been marked by general adoption of mechanical loading, whereas in districts where wage rates were lower, less mechanization is evident.[22] It would be expected that wage increases would stimulate mechanization in the coal industry[23]; for labor costs constitute a very high proportion of total costs. In bituminous coal, for example, 72 per cent of the expenses of production is represented by wage disbursements.[24] Application of mechanical means to loading operations in this industry was inevitable as a technological development,[25] for shoveling coal into mine cars requires from 50–60 per cent of the total force in a bituminous mine.[26] Consequently, the change from hand to machine loading offers great possibilities of raising man-hour output and reducing unit labor cost. Added to these considerations is the fact that wage increases in the industry have been substantial. In bituminous coal, for example, average hourly earnings increased from 50 cents in 1933 to $1.63 in July 1947.[27] The actual increase in the price of labor was greater than these figures would indicate, since the miners have also won a welfare fund, paid vacations, and other benefits.

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[20] From a field survey conducted by one of the writers.

[21] A. M. Ross, "What is Responsible Wage Policy," *Southern Economic Journal*, **14**:275 (1948).

[22] F. G. Tryon, *et al.*, "The Mineral Industries," in *Technological Trends and National Policy* (Washington, United States National Resources Committee, 1937), p. 154.

[23] Although the rate of *application* of the mechanical undercutter and loader has been accelerated by wage increases, *invention* of these devices was not attributable to wage increases. Manufacture for sale of the former began in 1880, while experimentation on the latter began over 40 years ago. Discovery of these devices was motivated by the desire to save labor, but relative changes in factor costs were not a condition of their discovery. See H. Jerome, *Mechanization in Industry* (New York, National Bureau of Economic Research, 1934), pp. 130–131.

[24] *Statistical Abstract of the United States for 1942* (Washington, 1943), p. 721.

[25] In an interview with one of the writers, a high official in the United Mine Workers conceded that union wage pressure had speeded up technological change in the coal industry. However, he argued that the large companies would have introduced the new machines anyhow, although the smaller companies might have been content to go along with hand methods had it not been for the pressure of high labor costs.

The reader may perhaps question the relevancy of a discussion of increases in total cost in connection with introduction of improved processes. For it is the saving in operating expense (i.e., marginal cost) which determines the profitability of operation of a new machine. This is true when the contemplated change in methods has already reached the stage of calculation and deliberation, but before this stage is reached the employer must first be induced to take action. It is in this connection that relative magnitudes of labor costs and total costs become significant. In firms in which labor costs constitute a minor outlay, wage increases fail to make much of an impression upon the cost-consciousness of the entrepreneur[28] and therefore are less likely to be the factor which stimulates him to change production methods.

Of course, even if labor cost is only a small percentage of total cost, it may still make its pressure felt. This is particularly true in firms operating under a slim profit margin. Moreover, even if labor cost constitutes only a small proportion of over-all costs, it may still bulk large in an individual department, whose head will undoubtedly be alert to offset wage increases by further mechanization wherever possible. These qualifications must, of course, be admitted. Nevertheless, as a general rule, of two companies having equal profit ratios, in one of which labor costs constitute a large proportion of total costs, and in the other a small proportion, the former is more likely to attach importance to wage increases as a stimulus to mechanization.[29] The smaller are labor costs and the larger (relatively) are other costs of operation, the more important the latter become as objectives of the cost-saving function of technical improvement. Thus, where labor cost is relatively small, the desire to save materials, economize floor space, reduce insurance rates, eliminate breakdowns, reduce overhead, or cut fuel and power bills frequently constitutes a major motive for introducing changes in production technique.

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[26] *Monthly Labor Review,* **50**:341 (1940).

[27] *Monthly Labor Review,* **63**:166 (1946); *United States News* (July 18, 1947), p. 25.

[28] If wage pressure is not sufficient to activate entrepreneurial reaction, wage increases *plus* labor trouble may prove to be more effective. The "nuisance cost" of union organization may have the effect of lowering the threshold of employer resistance to labor-saving devices. See E. Lonigan, "The Effect of Modern Technological Conditions Upon the Employment of Labor," *American Economic Review,* **29**:252 (1939).

[29] As Professor Slichter puts it, "The very fact that wage rates tend to be high in industries in which labor costs are a small proportion of sales suggests that the level of labor costs affects the attention which management gives to them." S. H. Slichter, "The Responsibility of Organized Labor for Employment," *American Economic Review,* **35**:199 (1945, supplement).

Keen Competition and Low Profit Margins

Wage increases are most likely to stimulate mechanization when they occur against a background of keen competition and low profit margins. Emerson once remarked: "Mankind is as lazy as it dares to be"—and employers are no exception. If profit margins are ample and rising labor costs can be compensated for by raising prices, wage pressure is less likely to stimulate productive efficiency than if profit margins are thin and consumer resistance to higher prices substantial. The condition of wage pressure, keen competition, and low profit margins is frequently a result of partial unionization of an industry, which produces a flight of non-union firms to areas where cheap labor can be obtained and union organization avoided. Firms remaining in the union sphere are placed in a difficult competitive position, on the one hand being saddled with higher costs and on the other hand being faced by competition from firms whose labor costs may actually have been reduced by reason of the exodus to low-wage territory. Union wage pressure in such a case provides a double spur to efficiency and the usual result is an intensification of mechanization in union-controlled plants in an effort to reduce unit costs to a competitive level despite the incidence of higher union wage scales.

However, if the union and non-union wage differential is too great, mechanization in the union plants may actually be discouraged. Mechanization is a form of investment, and investment requires the prospect of profit. Consequently, in a number of industries which have been partially unionized, the newest machines and the most intensive degree of mechanization are to be found in the *low-wage* non-union sector. This is true of the textile industry and also to some extent of the printing industry. In the hosiery industry, it has been necessary for the union to encourage mechanization through union-management coöperation, since most of the new capital and new equipment has been going into the non-unionized part of the industry.

In a number of industries, union wage pressure has definitely contributed to an accelerated rate of technological change. In the viscose filament rayon industry, the president of the Textile Workers Union of America declared, "With competition increasing and the profit margin narrowing . . . manufacturers are seeking every possible method of reducing their labor force."[30] In the extractive industries, union wage pressure set against a declining profit ratio, in part attributable to increasing handicaps imposed by nature[31] and in part to competition from substitutes in the sales market, has tended to stimulate mechanization.

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[30] *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power* (Washington, 1940), Pt. 30, p. 16841.

In several companies in the food processing industry canvassed by one of the writers, wage increases have stimulated mechanization because consumer resistance has rendered it difficult to raise prices further and rising costs of raw material resulting from the Administration's farm policy have so cut into profit margins that absorption of wage increases out of profits was impossible. Hence mechanization was the only remaining avenue of escape. Similarly, in a drug company operating on a profit margin of less than 1 per cent of sales, wage increases were also held to have stimulated mechanization, despite the fact that direct labor costs averaged only 5 per cent of total costs. This company had been gradually losing business over a period of years and so was very sensitive to increases in cost *of any kind.* That, perhaps, is the important point. In companies operating on low profit margins, wage increases frequently provide the spur which motivates management to substitute machinery for labor, *but an increase in material costs, or overhead, or taxes might have had precisely the same effect.* The stimulus of the increase in wage costs compels management to look around in the industry and bring its own plant up-to-date with others. It is possible that even if wage rates had remained at their former level, but other costs had risen, management would have been equally stimulated to economize and would have introduced the new machines just the same. In other words, in many of the highly competitive industries, where wage increases apparently stimulate introduction of machinery, it may be the pressure of costs in general rather than of wages *per se* which is responsible for this relationship. Just as there is, under certain circumstances, a relationship between the level of wage rates and intensity of mechanization, so there is a similar relationship between the level of costs in general and the rate of introduction of known improvements.

SIZE OF FIRM

In addition to the relative importance of labor costs and the degree of competition, size of firm may also influence the nature and significance of the effect which wage pressure exercises upon the rate of mechanization. While the influence of various conditioning factors cannot be ignored, it seems probable that, *ceteris paribus*, the smaller the size of the firm, the greater the likelihood that wage increases will stimulate mechanization. Note that smallness of corporate entity creates a situation in which the *pressure of wage increases* stimulates mechanization. Considered alone, smallness of firm is probably a deterrent to mechanization. The large company, having readier access to investment funds and because of its size capable of achieving a more intensive division of labor, is generally more highly mechanized. It is in conjunction with the pressure of wages that smallness exercises an influence contributing to an acceleration in mechanization.

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[31] In lead and zinc mining, for example, productivity fell about 13 per cent from 1939 to 1943. *Monthly Labor Review*, **63**:909 (1946). This decline was largely attributable to the working of poorer grade ores, because of the needs of the war program.

There are a number of reasons why one might expect a difference in reaction by small and large companies to the same wage stimulus. In the first place, in many industries the large companies through the medium of advertising are able to build up a notion of quality in the minds of consumers, thus making it easier for them to pass on wage increases in the form of higher prices without losing many customers. In contrast, small companies which cannot afford expensive advertising are compelled to compete primarily on the basis of price and so are forced to find other means than price adjustments to offset higher labor costs. In the second place, small business may be located in more highly competitive fields than large companies and therefore display a greater sensitivity to the pressure of high wage costs. Thirdly, the cash resources of the typical little businessman and the means available to him to obtain short-term working capital are generally less adequate than those of big business. As a consequence, wage increases, by depleting cash resources, are likely to stimulate management to find ways and means of reducing the payroll to its former level.

Lastly, one cannot neglect those non-economic factors which are ignored by economic theory, but which play such an important role in the business world. It is possible, for example, that technological progress proceeds upon a more economic basis in small companies than in large ones.[32] In large companies, executives take great pride in being able to say: "We have the most up-to-date factory in the entire industry." If one large company puts in a new machine which makes a better or more uniform product, or which makes manufacturing operations less tiring to labor, then large competitors will frequently follow suit, even if the result is to raise unit labor costs. "Keeping up with the Joneses" has its counterpart in the business world[33] and is an important motive stimulating technological improvement in large-scale industry.

Some department heads in large concerns like to buy every new gadget that comes on the market. Whereas the little businessman will repair a machine when it breaks down, the plant superintendent in a large concern is more likely to order a new one. Progress in large companies becomes a thing in itself, never, of course, wholly detached from principles of cost, but nevertheless considerably influenced by considerations of prestige, keeping up with the other fellow, and perhaps by something akin to the pride of the connoisseur. Because of the influence of these and related motives, wage increases are probably relatively less important as a stimulus to mechanization in large companies than in small firms.

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[32] On the other hand, in small companies, personal considerations are likely to overshadow purely economic calculations, particularly in the matter of layoffs. In plants where the president knows every employee by his first name, labor-saving improvements are likely to be introduced more slowly than in large companies where displacement of labor is less of a personal process.

[33] Conspicuous investment and technological emulation may be the counterpart in the field of business of what Veblen referred to as conspicuous consumption on the part of consumers.

Executives in large companies are continually searching for new techniques, new machines, and new devices which give promise of reducing costs and raising profits. Consequently, technological progress goes on without much relation to wage levels. In smaller companies, however, research expenditures are small or non-existent, management ability and remuneration is frequently less, and so technological progress may require frequent prodding. Union wage pressure may supply this necessary stimulus, contributing to a greater efficiency and to a more rapid rate of introduction of improved processes in small companies. Thus smallness of the corporate entity, like keenness of competition and a high ratio of labor costs to total costs, tends to create a situation in which wage pressure is most likely to stimulate mechanization.

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Unions and Industrial Efficiency

In the previous chapter, we reviewed the circumstances in which it was most likely that wage increases would stimulate mechanization. In this chapter, we direct our attention to a broader problem. We shall be concerned, not only with mechanization, but also with all the other methods by which costs can be lowered and quality of product improved. Even if it were proved that wage pressure had little or no effect upon the rate of mechanization, wage pressure still might afford a substantial stimulus to industrial efficiency if it induced management to seek other means of reducing cost and waste. The possibilities of mechanization are somewhat limited by the nature of the product, the availability of capital, and similar factors, but numerous other means—less subject to such restrictions—exist of reducing cost, such as proper scheduling of operations, elimination of breakdowns, better arrangement of floor space, and so forth.

Since mechanization is a method commonly utilized by management to achieve a reduction in costs, we shall again be concerned with the effect of wage increases upon introduction of machinery. We shall consider this problem, however, from the point of view of *union* wage adjustments, which may differ in nature and effect from the wage changes which would occur in an unorganized labor market. Because union wage movements are peculiar in a number of respects, the conclusions of the previous chapter regarding the relationship of wage pressure and rate of mechanization cannot be applied to union wage changes without some qualification.

In discussing the net effect of unions upon industrial efficiency, we shall also consider the consequences of union attempts to retard and control the rate of introduction of labor-saving machinery.

The Ubiquity of Inefficiency

In perfect competition, waste is fatal to the individual enterprise. Inefficiency reflected in high costs cannot under perfect competition be masked from the consumer by advertising. Nor can it be rendered harmless by combinations among producers to fix prices at a "safe" level or to erect barriers to shut out possible new competitors. Since in a perfectly competitive economy competition proceeds solely on the basis of price and new firms can freely enter the industry, inefficiency is penalized quickly and ruthlessly by business failure.

In actual business life, however, the cathartic influence of competition is considerably diminished. As one economist has expressed it:

> . . . there is in all industries, at all times, a variable but universally wide margin for the more speedy adoption of known and tried improvements in the methods and organization of production. The stimulus of competition under normal conditions is not sufficient to ensure the operation of the law of substitution either with great speed or great exactitude. There is undoubtedly scope for improvement, and there is the strong probability that an improvement would result if an additional stimulus is applied by increasing wages.[1]

It seems likely that there is a wide area in which wage pressure—and in particular union wage pressure—can contribute to raise the level of industrial efficiency. Naturally, unionism provides no panacea to the problem of waste in industry. In certain circumstances, union organization may provide the stimulus which makes the employer cost conscious and leads him to accelerate the tempo of technological change. In other cases, however, unionism may have the opposite effect. It may bring with it a paraphernalia of rules and restrictions which produce a waste of labor and resources far exceeding that which preceded it in the industry.[2]

Mode of Wage Payment and Efficiency

The nature of the effect exerted by union organization upon industrial efficiency will depend in large measure upon the type of wage payment in use, the greatest stimulus being forthcoming when payment by the piece is customary. Piecework tends to make management inefficient. Since the cost of mechanical work stoppages is borne by employees, employers are slow to correct defects in the productive apparatus, knowing that labor will compensate for them by working harder in order to prevent earnings from declining. Consequently, in piece rate industries, a major task of union officials is to improve working conditions and to eliminate the causes of delay in production. The result of union intervention is frequently a notable improvement in plant efficiency and an enhancement in quality of product. For example, in the stove, pottery, and glass bottle industries, union organization appears to have improved the quality of the product, although in the bituminous coal industry, union insistence upon run of the mine payment has made for the loading of dirty coal.

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[1] J. W. F. Rowe, *Wages in Practice and Theory* (London, George Routledge and Sons, 1938), p. 207.

[2] An interesting, though now outdated, study of the responsibility for waste in industry was conducted in 1921 by the Committee on Elimination of Waste in Industry. After investigating six industries in which unions had (and continue to have) considerable strength: men's clothing, metal trades, building trades, printing, boot and shoe, and textile manufacture, the Committee found that over 50 per cent of the responsibility for waste could be placed at the door of management and less than 25 per cent at the door of labor. See Committee on Elimination of Waste in Industry, *Summary of Report* (Washington, Federated American Engineering Societies, 1921), p. 8.

In industries where time payment is the vogue, union organization is more likely to diminish plant efficiency. In the automobile industry, for example, large wage increases have made labor more expensive and therefore interested management in using it more efficiently; but entrepreneurial efforts to boost the speed of machinery and to increase man-hour output have been opposed by the union, which by quotas and other restrictions on output, and frequent slowdown strikes has attempted to protect union members from speed-up measures.[3]

Effect of Union Organization on Technical Efficiency

In many firms prior to the advent of union organization management depended upon payment of low wages to keep costs down to a competitive level. As long as this effective means could be relied upon, productive efficiency tended to be ignored and suffered as a result.[4] Union organization, by removing wage rates from the competitive sphere, can produce a desirable change in emphasis from wage levels to production costs and thereby diminish the divergence in technical standards between the least efficient and most efficient firms in the industry. If the effect of union wage pressure is to make inefficient managers better imitators, the general level of efficiency in industry will benefit. And of course to the extent that the least efficient firms are eliminated, an automatic increase occurs in the statistical average efficiency of firms left in industry.

Union organization by raising wages in union plants increases the cost advantage of non-union competitors and compels union firms to increase efficiency in order to remain in competition. Moreover, the presence of a strong union with alert shop stewards compels management to justify many production methods and rates and therefore encourages a more careful examination of costs and production policy. Although union wage pressure probably produces a small net gain in labor efficiency, the difficulties encountered by union plants in holding their markets indicates that the gain is insufficient to offset the increased price of labor.

Union influence upon technical efficiency has a time dimension. Probably the greatest increase in efficiency is forthcoming when an industry is newly organized. Then the wastes may be more obvious and abundant, but after a while when the backlog of waste is exhausted, a point of diminishing returns must be reached. Furthermore, as unionism itself matures and its power in industry grows, it is more likely to bring its own wastes to industry. As a general rule, the more strongly entrenched is the position of a union in an industry, the less it is concerned with the efficiency of the individual firms under its jurisdiction. Consequently, even though the possibilities of raising the level of industrial efficiency are considerable, there is room for skepticism regarding the contribution which unionism will make in this respect in the future. Managements in the railroad, printing, and clothing industries have been subjected to union wage pressure over a long period, but it is doubtful whether they are conspicuously more able, thorough, and alert to technological developments than managements in other industries which do not operate under union pressure.[5] If union wage pressure does not in actual practice generate the improvement in efficiency which the rise in wage levels might be expected to produce, the failure may be attributable to the fact that union wage pressure involves a special kind of wage movement, the consequences of which may differ in significant respects from that produced by minimum wage legislation, for example, or non-union wage adjustments.

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[3] R. J. Thomas, vice-president of the United Automobile Workers, testified before the TNEC that his union had reduced productivity 5 to 10 per cent in the industry as a whole. See *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power in the United States* (Washington, 1941), Pt. 30, p. 16375.

[4] As Dr. Harry A. Millis aptly has phrased it: "Low wages and long hours have often been a tax, higher wages and shorter hours a premium, upon efficiency of organization and management." H. A. Millis, "The Union in Industry: Some Observations on the Theory of Collective Bargaining," *American Economic Review*, **25**:9, (1935).

Nature of Union Wage Movements

Modern industrial unionism has given rise to three tendencies of considerable economic portent. The first is the spread of industry-wide collective bargaining. The second is the stabilization on an industry-wide basis of hourly earnings, piece rates, or labor costs. The third is the spread of leader-follower relationships in wage policies. Not only do many unions bargain with employers representing the industry as a whole, but also they have attempted in a number of cases—the best known of which is the stabilization plan of the Amalgamated Clothing Workers—to eliminate cutthroat competition based on wage cutting by establishing uniform wage scales for the firms in the industry. And even where wage changes are not initiated on an industry-wide basis, the impetus which unionism affords to leader-follower relationships in wage policies has resulted in wage increases granted by one firm being followed soon after by the other firms in the industry. As a consequence of these union policies, wage increases tend to be industry-wide, the same increase being made by all firms in the industry at about the same time.

THE POLICY OF UNIFORMITY IN WAGES

In industries employing the most wage earners—steel, automotive bodies and parts, aircraft, rubber, baked goods, textile, paper and paper-board, and others—the tendency is for the individual employer to keep his wage rates in line with those paid by other firms in the industry, a policy which frequently results in an industry-wide wage adjustment whenever circumstances compel a revision of rates in a particular firm. While in many industries sympathetic intraindustry wage movements deriving from oligopolistic price policies antedate unionism, union pressure has tended to spread and to make explicit uniformity as a cardinal basis of wage policy. There is now double pressure for uniformity in wages: from competitors and from labor itself. Union contracts requiring payment of wages on a par with rates prevailing for work of a similar nature in other firms in the industry hasten the spread of wage increases through an industry. At the same time, however, such pressure may produce a feeling among company executives that upward adjustments should not be made unless other firms in the industry are making them, or the union demands them, and therefore make for fewer, though larger, wage adjustments.[6]

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[5] S. H. Slichter, "The Responsibility of Organized Labor for Employment," *American Economic Review*, **35**:199 (1945, supplement).

Most unions want uniformity throughout an area of competitive production, and to secure such uniformity a number of unions have attempted to extend their organization to cover the entire industry. During recent years, there has been industry- or trade-wide bargaining on a national scale in anthracite and bituminous coal mining, in railroading, and in the pottery and glassware industries. Regional collective bargaining between employers' associations and unions has existed in a number of industries, such as the full-fashioned hosiery industry and the silk mills in the Northeast, in trucking, and retail meat markets in the Middle West, and in the longshore and paper and pulp industries on the Pacific Coast.[7] Of course, not all unions strive for uniformity—and as far as organization is concerned, national agreements are in the distinct minority—but nevertheless the fact that many unions prefer equalization merits consideration in any evaluation of the effect of union wage pressure upon mechanization.

Unionism also makes for greater uniformity in the trend of wage rates over the economy as a whole. Thus, the percentage increase in hourly earnings in railroads, mining, and manufacturing has been approximately the same despite the fact that the former two are declining industries while the latter is expanding. Using 1923–25 as base period, index numbers of average hourly earnings in manufacturing increased from 36 in 1909 to 120 in 1939; in mining, the increase was from 41 to 111, and in steam railroads from 37 to 120.[8]

Unions are dynamic organizations, but paradoxically one of their major objectives is stability. Frequently, achievement of this aim is dependent upon elimination of competition between firms in the sphere of wage rates. The more competitive the industry, the smaller the units in the industry, and the less responsible the employers, the greater is the likelihood that union wage policy will seek competitive parity in labor cost as a measure to relieve pressure on the wage structure.[9] In an industry in which there is considerable variation in the size and efficiency of the individual firms, a union must decide whether the welfare of its members can best be served by equalization of hourly rates, piece rates, or labor costs per unit in the various plants under union jurisdiction. In some circumstances, the policy of equalization of wage rates or hourly earnings will provide the maximum incentive to industrial efficiency. It may be adopted in the form of uniform wage scales, as in the building and printing industries, where jobs are skilled and occupational rungs clearly defined, or it may take the form of uniformity in plant average hourly earnings, as in the carpet and rug industry, where rapid technology, and the lack of standardization of operations and product make this the most expedient policy. Such a plan attempts to stabilize earnings while leaving costs to management. Since backward companies must pay as high rates as the most efficient firms, a policy of uniformity in hourly or day wage rates provides the maximum incentive to adoption of improved machinery by the less efficient companies in an industry.

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[6] G. F. Bloom, "Wage Policies and Trends in the War Boom," *American Economic Review* **33**: 895–896 (1943).

[7] See Chapter 8 for further data on this subject.

[8] Witt Bowden, "Wages, Hours, and Productivity of Industrial Labor, 1909 to 1939," *Monthly Labor Review*, **51**:524 (1940).

If, on the other hand, the union decides to equalize piece rates or unit labor cost, the incentive afforded to employers to improve efficiency is reduced, unless the union agrees to adjust rates downward as improvements in technique permit greater output. For if piece rates are fixed, introduction of improved machinery serves merely to increase output per worker, so that labor's earnings, not employers' profits, are augmented by technical advance. In the men's clothing industry, for example, the Amalgamated Clothing Workers, through its market stabilization department, has attempted to standardize labor costs on a national scale. Standard labor costs are established for various grades of clothing and conformity with the standards of quality and labor cost is enforced by union representatives. Since the labor cost on a given grade of clothing is fixed and cannot be reduced, the employer is deprived of virtually all incentive to improve his method of production and the quality of his garments. One leading labor economist concludes:

> Because the market stabilization program substantially reduces the employer's incentive to make improvements, it would, if strictly enforced for a considerable period of time, impose stagnation on the union

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[9] Solomon Barkin, "Industrial Union Wage Policies," *Plan Age*, 6:3 (1948). The writers have drawn heavily on his article for this section.

> part of the industry, and it would undoubtedly lead to a considerable expansion of non-union production and employment.[10]

In practice, of course, strict enforcement of the stabilization plan has been impossible. Furthermore, the stabilization program does not apply to high-quality garments. Consequently, an area is still left in which an incentive is offered to the employer to improve methods of production. In this connection, it is important to realize that even if employers cannot reduce labor costs through mechanization, technological progress may still hold forth the prospect of savings in other costs.

In the full-fashioned hosiery industry, the American Federation of Hosiery Workers was compelled to abandon its policy of uniformity in piece rates, because it gave union concerns no incentive to keep up with technology and as a result the non-union low-wage sector of the industry made the more rapid strides in mechanization.[11] To induce union manufacturers to modernize equipment, the union negotiated individually with employers, promising concessions in rates in exchange for purchases of new equipment. The more or less standard bargain was that in return for the purchase of 10 per cent new equipment, the union would concede piece rate reductions of about 15 per cent.[12] By 1941, the unionized sector of the industry had caught up with the non-union sufficiently so that the union was able to return to uniform piece rates once more. The experience of the American Federation of Hosiery Workers and of other unions which have attempted to impose uniform piece rates or unit labor costs on an industry indicates that such a policy may act as a substantial deterrent to progress in technique. At the present stage of union organization, unions have been compelled to interest themselves in the stage of technological efficiency of their employers, since diversion of the trade to more efficient non-union manufacturers is a constant threat to union job opportunities. Whether unions will be equally concerned about efficiency when industry-wide collective bargaining becomes the rule is, however, questionable.

On the whole, it seems likely that equalization of wage rates will come to be the dominant form of union wage policy.[13] Of course, there must necessarily be variations from this to suit the peculiarities of individual industries, but the policy of uniformity will probably come to prevail in those industries in which it is practicable because it is best adapted to the political necessities of unionism. It is simple and its aim of equality in a particularly obvious and just form commends it as a slogan for the rank and file. Its reasonableness is convincing. As one union leader puts it—"If Joe Smith goes into a store to buy a hat, he has to pay the same price for it whether he happens to be an employee of General Motors or Willys. Then why shouldn't he be paid the same rate for his work?" If uniformity of hourly earnings becomes the predominant wage policy of unionism, then the effectiveness of union wage pressure in hastening the spread of improvements from progressive firms to less efficient ones will be augmented.

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[10] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 531.

[11] Union plants were at a disadvantage not only because of a higher wage level than non-union firms, but also because the piece rate schedules gave employers no saving in direct labor cost after a certain point for introducing more productive machinery. S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 357, note 21.

[12] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 359.

[13] When an industry is first entered by a union, the effect of collective bargaining is usually to widen wage differentials, because unions organize the large, better

The Policy of Simultaneity in Wage Adjustments

Unions may seek simultaneity in timing of wage changes rather than uniformity in rates. As stated by the President of the Textile Workers Union of America:

> We did not try to get stability in the level of wages but in the movement of wages. We were interested in getting increases and decreases by different employers related, not in having them all pay equal wages for the same work.[14]

What would be the effect upon industrial efficiency of general adoption of such a policy by unions?

While *uniformity* in hourly earnings—though not in piece rates—conduces to greater industrial efficiency, *simultaneity* in wage increases probably lessens the effectiveness of the stimulus which normally is forthcoming from wage pressure. If wage rates are raised generally in an industry, the individual entrepreneur, knowing that his competitors are faced by the same rise in costs as he, is much more likely to attempt to pass on the increased labor costs in the form of higher prices to consumers, in the expectation that competitors will follow a similar course, than if he alone had been compelled to grant a wage increase. Price increases are more likely to follow industry-wide changes in wage levels than changes within a single firm, because the average businessman, although he has a fair conception of the demand curve for his individual product, has either no notion of a demand curve for the product of the industry, or else assumes that it is inelastic within the relevant range. Thus simultaneous

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paying firms first and raise their wages further. Ultimately, however, as the strength of the union increases and the low-wage firms are brought under union control, the variation in wage rates among firms is diminished.

[14] Statement by Emil Rieve before Seminar in Collective Bargaining, Harvard University, January 19, 1943.

union wage changes facilitate shifting the burden of higher labor costs to the consumer. To the extent that this is accomplished, the inducement afforded to management to increase its efficiency is lessened, and as a consequence neither mechanization nor technological changes of other kinds may follow the wage increase. Profits may not be cut at all by the wage adjustment, but merely be kept from rising as fast as they otherwise would have in good times.

Not only does the nature of union wage pressure conduce to general price movements by the firms affected, but also it provides a common problem affecting all companies in an industry alike and therefore tends to build up a certain solidarity and unity of purpose among employers which may have deleterious consequences for consumers.[15] Collective action by workers in an industry stimulates collective action by employers. As in the Hegelian dialectic, thesis breeds antithesis—and the synthesis may be a conspiracy against the consumer. Wage increases throughout an industry may precipitate a demand for higher tariff protection by the manufacturers of the industry—and likely as not the union will lobby in favor of the demand.[16] Or, as in the coal industry, unions and employers may jointly seek government assurance of the maintenance of "fair prices." Unionism discourages competitive price cutting based upon chiseling of wage rates, but unfortunately at the same time probably encourages monopolistic price practices among employers[17] who see in "maintenance of fair prices" the only means of meeting union demands for higher wages and at the same time protecting profits. In the photoengraving industry, for example, both wages and prices were raised through an agreement between the American Photo-Engravers Association and the International Photo-Engravers' Union whereby the union got a closed shop and wage increases in return for a promise that union members would work only for firms that were affiliated with the local units of the American Photo-Engravers Association and that maintained the Association's "standard scale" of uniform minimum base prices, based on high costs and intended to provide a good profit.[18] Such reactions to union wage pressure, unlike efforts to improve production methods, can only result in exploitation of the consumer and ultimately redound to labor's detriment. It is to labor's interest that management be as efficient as possible; for it is only through technological improvement and elimination of waste in industry that higher money wages can be converted into higher real income. Therefore, unions have an important stake in seeing that wage pressure is not transformed into upward pressures upon product prices, but exerts its maximum effect in stimulating management to increase productive efficiency.

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[15] As Professor Slichter has observed, "one of the dangers of national agreements between unions and associations of employers is that the agreements will be used by the less progressive employers to retard technological changes by progressive employers." S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 205.

[16] There are several instances of unions seeking tariff protection as a means of supporting a high level of wages in an industry. The Glass Bottle Blowers strongly supported a higher tariff on French perfume bottles and the National Brotherhood of Operative Potters lobbied in favor of higher duties on pottery. See J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 10; and D. McCabe, *National Collective Bargaining in the Pottery Industry* (Baltimore, Johns Hopkins Press, 1932), p. 116.

[17] The first organization of labor into unions prompted Engels to say, "What gives these unions and the strikes arising from them their real significance is . . . that they are the first attempt of the workers to abolish competition." (Frederick Engels, *Condition of the Working Class in England in 1844*, 3d reprint, London, George Allen and Unwin, 1936, p. 218.) The movement of labor to restrict the free action of competitive forces has continued over the years. From restriction of competition among workers for jobs it has extended to establishing uniform labor costs for an industry to prevent cutthroat wage cutting. It is an easy step from stabilization of wages to stabilization of prices—and this may become an important objective of union policy in the future. In any appraisal of the forces making for greater rigidity in the economic system, unionism must be given an important place.

Union-Management Coöperation

In Chapter 6, we discussed the fact that some unions have coöperated with management to reduce costs. The possibility of extension of such joint efforts to improve efficiency must be considered in any general appraisal of the effect of unions on industrial efficiency. In view of our conclusion that such coöperation occurs infrequently, and then only as a last resort as a result of threats to maintenance of the wage or employment level, the effect of union-management coöperation is not likely to be significant.

Union Opposition to Technological Change

Because of the nature and timing of union wage adjustments, union wage pressure may afford only a slight stimulus to industrial efficiency. On the other hand, union policies which seek to regulate the rate of introduction of labor-saving machinery, which were also discussed in Chapter 6, may actively hinder managerial efforts to reduce costs and thus contribute to a lowering of the level of industrial efficiency.

Union efforts to reduce the amount of displacement of labor caused by technological improvements may be successful with regard to particular machines and particular workers, but for labor in general, such measures are likely to produce a diminution in job opportunities. Labor may be able, by means of dismissal wages and similar measures, to shift the immediate cost of technological change to employers and stockholders, but ultimately the cost will be shifted by them to the community at large, including labor. To the extent that the volume of attractive investment opportunities is reduced by the retardation in technological advance, there is some shift in the incidence of such measures to savers—through a depressing effect on interest rates. To the extent that technological progress is retarded, consumers fail to obtain the full benefits of advances in science and invention. Thus, ultimately, the community as a whole must bear the cost of measures adopted by labor to reduce the incidence upon employment of unrestricted technological change. This principle should be recognized by taking funds from the general treasury to alleviate labor distress and unemployment, rather than in encouraging or enacting general restrictive regulations designed to retard the tempo of industrial progress.

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[18] R. A. Lester. *Economics of Labor* (New York, The Macmillan Company, 1941), p. 147.

Summary

On the whole, union organization will probably tend to diminish industrial efficiency, rather than improve it. The growing strength of unions presages a multiplication of union rules and restrictions which will limit the freedom of the employer to eliminate costly operations and to introduce improved techniques of production. Although union wage pressure may afford some stimulus to technological progress in its broader aspects, it is doubtful whether general union wage adjustments occurring more or less simultaneously over a broad area of industry will provide much stimulus to the rate of mechanization. Moreover, whatever stimulus is forthcoming from this source will tend to be offset by the restrictive influence of union policies which retard the rate of introduction of labor-saving machinery.

Such union policies have an unfavorable effect both upon the level of industrial efficiency and upon the volume of investment and employment. Not all improvements in efficiency involve additional investment. For example, such increases in efficiency as those which result from better production control, time and motion studies, improvement in shipping methods, salvage and waste reclamation, use of more durable tools, and so forth may reduce costs. But instead of involving additional investment, their effect may actually be to reduce fixed capital requirements.[19] Mechanization is important to our economy, not only because it is normally an essential component of plans to reduce cost, but also because mechanization requires purchase of capital equipment. And investment of this character supplies much of the motive power for our economy. Union efforts to retard mechanization, therefore, strike at a form of technological progress which affords the greatest stimulus to investment and employment.

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[19] Improvements of this type in the automobile industry have made possible a 40 per cent reduction in fixed capital investment from 1926 to 1937 with no decline in capacity. *Hearings before the Temporary National Economic Committee on Technology and Concentration of Economic Power in the United States* (Washington, 1941), Pt. 30, p. 16239.

However, it would be unfair to weigh the effect of unions upon industrial efficiency solely in terms of costs, maximum output, dollars and cents. Industry produces men as well as goods. An economy which is efficient in terms of achieving maximum product at minimum cost may not be so efficient if the concept of "cost" is enlarged to take full account of human costs. Managerial accounting does not include the social losses of the community. For example, in making a full evaluation of the consequences—both economic and social—of union efforts to curb the excesses of technological change, it should be recognized that, in the past, unrestricted introduction of labor-saving machinery may have resulted in a rate of progress which from the social[20] point of view was too rapid—account being taken of the dislocation of communities, the loss of skills, and the idle manpower which the flood of improvements left in its wake. Viewed in this light, union attempts to control the rate of technological development may make for a better approximation to an "optimum" rate of introduction of improvements in technique.

Despite the fact that its indirect repercussion upon new investment, and thus upon aggregate employment, may be unsalutary, adoption of some sort of program designed to lessen the unemployment, the dislocation, and the human suffering that are caused by unregulated technological change appears to be definitely written on the agenda of industrial democracy. America is marching along the road of social reform, and the control of technological change is a step along that road which cannot be retraced. The regulation of industrial progress through government law and union rule in the interest of providing greater security to the worker seems to be an objective which most modern economies are approaching. In seeking to attain this objective, however, America should recognize that the price of such increased security may be a diminution in industrial efficiency and a curtailment of private investment.

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[20] For a discussion of the effect of technical progress on private and social net product, see A. C. Pigou, *Economics of Welfare*, 3d ed. (London, Macmillan and Company, 1929), pp. 190 ff.

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Sharing Increased Productivity

The study of the distribution of gains of technological progress has two aspects which, though related, are conceptually distinct, and should not be confused. The first aspect deals with the variations which have occurred in labor's share of national income over a period of time. Thus we may wish to know whether labor's proportion of the national income is increasing or decreasing relative to that received by other income groups. This phase of the problem involves a study of the change in real wages, the decline in actual hours of work, the variation in the number of employees constituting the labor force, and the growth in total national product. These factors taken together ultimately determine whether labor *in the aggregate* improves its economic position *relative* to other income groups.

The reader should note that an increase in the proportion of the national product going to labor is not synonymous with a rise in the standard of living of labor. For example, labor's share of national income produced is ordinarily highest during deep depression.[1] This can be explained by the fact that profits are a more volatile element than wages, and that labor income in depression tends to be maintained at the expense of dissaving by business enterprises. Conversely, a rising standard of living for labor may be associated with a declining share for labor in the national income. One reason for this divergence is that leisure—a major component of standard of living—is not included in the national product. From 1923–24 to 1936–37, weekly money earnings in manufacturing actually decreased 8.6 per cent while weekly real earnings increased only 6.1 per cent.[2] This indicates that labor shared in the gains of increasing productivity during this period largely in the form of increasing leisure. Thus, when labor participates in the gains of technological progress by receiving higher real hourly earnings and working fewer hours, its standard of living is raised; yet it may receive in the aggregate a smaller proportion of total income payments. In the following discussion, it is important to bear in mind that the statement that labor shares in technological progress through a rising level of real wages, by itself, tells us nothing about the *relative* distribution of the gains of increasing productivity.

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[1] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 155.

[2] S. Bell, *Productivity, Wages, and National Income* (Washington, Brookings Institution, 1940), p. 173.

The second aspect of the study of distribution is concerned with the particular manner in which the gains of increasing productivity are funneled into labor's pockets. The economic history of the United States and England indicates that the typical capitalistic process for distributing such gains is through a rise in real wages of labor and a progressive shortening of hours of work. But real wages can rise for two reasons: either money wages rise while prices remain relatively stable, or money wages remain constant while prices fall. Which of these two methods has characterized our industrial development? Will the particular method of distribution which is adopted affect the employment opportunities of labor? These are the questions with which we shall be concerned in this discussion. Before examining them, however, a few words concerning the share of labor in the national income may prove helpful.

Labor's Share in the National Income

The first problem which so often arises in situations where economic concepts are applied to statistical investigation is one of definition. Our first difficulty in determining the share of labor in national income is an obvious one: what do we mean by "labor?" Shall we include salaried employees or merely industrial wage earners? Are we concerned with private payrolls alone, or with private payrolls augmented by government disbursements to those on relief? Defining national income is a less obvious but equally troublesome problem. The share of labor will vary depending on whether we look at income produced or at income paid out. Income produced will exceed (or fall short of) income paid out[3] by the amount of the net saving (positive or negative) of corporations and governmental units.[4] Because of the volatile nature of business profits and losses, national income produced will fluctuate much more than income payments to individuals.[5]

When business savings and losses are omitted, the percentage of income payments received by employees (salaried as well as wage earning) is fairly constant both over the business cycle and over relatively long periods. For example, in 1929, 65 per cent of income paid out went to employees; in 1933, 64.8 per cent; in 1938, 67.3 per cent.[6] Though this was a period of exceedingly wide fluctuation in employment, wage rates, and national income, the share of labor in the national income remained comparatively stationary.

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[3] In the more recent terminology adopted by the Department of Commerce, income produced is now more precisely defined as "net national income at factor cost," while income paid out becomes simply "personal income." *National Income Supplement to Survey of Current Business*, **27**:1 ff. (1947).

[4] J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 152.

[5] For example, the net savings of enterprises fluctuated from a positive 10 per cent of income payments in 1926 to a negative 20 per cent in 1932 and 1933. J. T. Dunlop, *Wage Determination Under Trade Unions* (New York, The Macmillan Company, 1944), p. 152.

The same comparative stability in the relative share of national income going to labor is to be observed over much longer periods, in both the United States and England. The statistics are, of course, at best merely estimates. Because of probable error in statistical technique, difficulties in classification, and similar problems, they should be taken not as precise figures of labor's share, but rather as indicative of a tendency. One of the most thorough American investigations concludes that for the period 1870 to 1938 the share of national income distributed as employee compensation has shown a tendency to rise from somewhat below 60 per cent of aggregate payments in the last quarter of the nineteenth century to somewhat above it in the 1920's and 1930's.[7] In view of the great social changes which characterized this long period, the slight rise which did occur is indicative of a remarkable stability in labor's share.[8] In England, investigations suggest that the share of national income distributed to labor has remained approximately stable from 1880 to 1913,[9] and from 1911 to 1924.[10]

This statistical record has led some economists to conclude that for the material prosperity of labor as a whole, it makes no great difference whether money wages rise swiftly or slowly, or whether labor is organized or unorganized[11]; for without regard to these factors, labor seems to receive a fairly constant proportion of any increase in national income. This statement undoubtedly embodies an important truth, but it is subject to some qualification. It should be remembered that a constant share for labor in national income *payments* actually indicates that labor is gaining materially relative to other groups, for no group achieved greater leisure time than labor has in the last 50 years. It is possible that union organization may be effective in accelerating the rate at which increasing productivity is converted into leisure, as well as in securing for employees various benefits such as paid vacations which are not fully reflected in statistics of national income payments.

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[6] A. Hansen, *Fiscal Policy and Business Cycles* (New York, W. W. Norton and Company, 1941), p. 245.

[7] S. Kuznets, *National Income, A Summary of Findings* (New York, National Bureau of Economic Research, 1946), pp. 49–50.

[8] The comparative stability in the relative shares of total product going to labor and capital tends to confirm the hypothesis of the production function developed by Professor Paul Douglas. Douglas has suggested that a production function of the order: $P' = 1.01L^{3/4}C^{1/4}$ gives a close fit to American production data from 1899 to 1922. If the factors of production in the function have exponents whose sum is equal to 1.0 and which are constant over a long period of time, then the proportion of the total product imputed to each factor would also be constant and would be equal to the exponent of the factor in question. See P. Douglas, *Theory of Wages* (New York, The Macmillan Company, 1934), pp. 133, 221.

[9] A. L. Bowley, *The Change in the Distribution of the National Income, 1880–1913* (New York, Oxford University Press, 1920), pp. 24–25.

[10] A. L. Bowley and J. Stamp, *The National Income* (New York, Oxford University Press, 1924), p. 50.

[11] This view was expounded, for example, by F. W. Taussig, "The Opposition of Interest Between Employer and Employee: Difficulties and Remedies," *Wertheim Lectures on Industrial Relations* (Cambridge, Harvard University Press, 1929), p. 222.

If the relative constancy in the share of the national product going to labor continues in the future, the real bargaining over shares in the gains of technological progress will be between unions and unions, rather than between labor and other income groups. Through the media of employers, unions will bargain with one another over division of the 60 per cent or more of the national income which goes to employees. Strong unions will impose wage rates and terms of employment which will compel employers to charge relatively high prices which everybody including the members of weak unions and their families will have to pay.[12] Members of strong unions will therefore increase their real incomes at the expense of the members of weak unions.

How Gains of Increasing Productivity Have Been Distributed

Over the last 100 years, the typical adjustment of the American economy to technological advance reflected in rising man-hour output has been in the form of rising money wages rather than through a falling price level. In 1940, output per man-hour in the economy as a whole was roughly six times as great as in 1840.[13] While the real level of prices in 1940 was probably moderately below the level of 1840,[14] hourly earnings outside of agriculture in 1940 were nearly eight times as high as in 1840. No other price series has risen as rapidly as hourly earnings of labor.[15] In recent years, the rise in money wages has been particularly marked. In contrast to the period of the twenties when hourly earnings were relatively stable,[16] hourly earnings in manufacturing rose from a low of 43 cents in 1933[17] to 118.6 cents in April 1947.[18]

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[12] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), pp. 75–76.

[13] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), p. 88.

[14] Actually, the index of wholesale prices in 1940 was about 10 per cent higher than in 1840 (S. H. Slichter, *The Challenge of Industrial Relations*, Ithaca, Cornell University Press, 1947, p. 88), but the index has an upward bias, particularly in view of the great improvement in quality of goods.

[15] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), p. 89.

[16] Average hourly earnings in manufacturing, mining, and steam railroads were 54.7 cents in 1923 and in 1931, although there was a rise of a few cents in the intervening years. *Monthly Labor Review*, **51**:524 (1940).

[17] *Monthly Labor Review*, **37**:969 (1933).

[18] *Monthly Labor Review*, **63**:111 (1947).

Would the real income of labor and of other groups in the community have been greater if the gains of increasing productivity had been distributed in the form of lower prices, rather than rising wages? There are those who deny that this question has any practical significance today in view of the degree of organization in the labor market. To be sure, the formidable strength of unions in this country suggests that money wage rates will continue to rise, but this does not leave the problem of the optimum means of distribution without analytical and practical interest.

In appraising the merits of the alternative methods of distributing the gains of technological progress, we shall find it convenient to consider the problem from two viewpoints:

1. Which method is socially more desirable from the point of view of equity?
2. Which method is better designed to maximize employment and output?

Social Desirability of Reduction in Prices

In the absence of some special claim by labor to preferential treatment, reduction in commodity prices would seem by all odds to be the most desirable method of distributing the benefits of increasing productivity. In large measure, the increasing productivity of labor reflects the combined efforts of the whole community—of savers who contribute the capital equipment; of scientists who pioneer new methods; of entrepreneurs who combine the factors into new and more efficient working teams; and of workers who contribute the skill and brawn to make the technological advances a physical reality. Therefore, if these groups are to be treated equitably, the increase in productivity representing their joint efforts should be reflected in falling prices, since only in this way can all groups share alike.

Does labor as a group have any special claim to the gains of technological advance, that its needs should be given precedence over those of the rest of the community? Labor, as a group, may bear the major share of the inconveniences and dislocations produced by technological change, so that a preferential right to the benefits might be claimed as compensation. But the falsity of this proposition lies in the fact that the particular workers who would get preferential treatment would be those who remain employed at the higher wages, while the ones who actually suffer the "inconveniences and dislocations" would find that the buying power of their relief checks would be reduced by the preferential treatment accorded their more fortunate employed brethren. Moreover, labor is not the only group affected by the incidence of technological change. Innovation in one firm may produce bankruptcy in competitors, compelling entrepreneurs to move to other areas to seek new positions. Similarly, stockholders and bondholders may suffer losses as a result of improved processes in competing firms. Are savers and entrepreneurs also entitled to compensation for the dislocations caused by technological change?

Actually, no single group in the community has a special right to the gains of increased productivity. In perfect competition, not even the innovator would be able to retain the gains of innovation, except momentarily. The benefits which derive from technological progress belong to the community as a whole, for the innovator has accomplished the technological change by drawing upon the community's store of knowledge. The widow on an annuity pension, the laborer in the firm making the technical improvement, and the farmer who feeds the laborer, all have an equal right to share in the gains of technological advance. The only means by which all these groups can share equitably is through reflecting increasing productivity in a continuous lowering of commodity prices.

While it is difficult to prove that labor has any special right to the gains of productivity, some defense of distribution in the form of higher money wages is possible on the ground that unless this method is adopted, the full potentialities of technological progress will not be realized. Let us examine this possibility both from the point of view of the individual firm in which a change in technique occurs, and from the point of view of the economy as a whole.

The Economics of Productivity Changes

Single Firm Analysis

Where the productivity change is confined to an individual firm (or industry), there is little to recommend distribution of the savings in the cost in the form of higher money wages. Introduction of an improvement raising the productivity of labor will make possible the production of the same output at lower cost with fewer workers. If employed workers are given wage increases equal to the amount of the savings effected by the improvement, there will be no net change in costs, no change in prices, but some men will be unemployed while others will be employed at higher wages. There will be no incentive offered the employer to expand production and employment. What might have been a promising field for new investment has been barred by the rise in wage rates. Lower prices cannot be offered as an incentive to the consumer, since the cost of production has remained unchanged. Obviously, if labor were able to siphon off all the advantages of technological progress in this way, there would be little inducement to employers to make any improvements in technique. One need only consider what would have been the fate of the infant automobile industry in the face of such labor policy, to recognize the importance of reflecting productivity changes in lower prices to consumers.

The objection is sometimes raised that while price reductions are more desirable than wage increases, businessmen, through monopoly control and administered prices, are able to maintain prices despite falling costs. Therefore, the argument continues, unless wages are raised, a deficiency of purchasing power will develop which will deprive the community of the benefit of the increased productivity. Not only is the economic reasoning of this argument faulty, but also it does not conform to the facts. Undoubtedly it is true that firms in strategic market positions may be able temporarily to retain for themselves the benefits of cost reduction incident to technological progress without reducing prices. But in the long run there can be no doubt but that these gains are passed on to all groups in the community. The reader need only consider some of the distinctive features of our modern civilization—automobiles, refrigerators, radios—and compare the present-day models with those at the turn of the century to gain an appreciation of the extent to which consumers have benefited—in lower prices and increased quality—from technological advancement.

Reduction of prices in an individual firm, following upon a technical improvement, increases the real income of the community if the product is a consumers good and stimulates investment and output if it is a capital good. If the elasticity of demand for the product of the firm or industry is greater than unity, consumers will buy more, and employment will tend to be maintained or even expanded in the firm or industry; if the elasticity of demand is less than unity, consumers will have more dollars to spend on other products and employment will increase elsewhere in the economy. The net effect upon employment will thus depend upon labor-saving capacity of the improvement, the elasticity of demand for the product, and the average elasticity of demand for labor under the new allocation of consumer expenditures.

Productivity Changes over the Whole Economy

From 1923 to 1937, productivity in manufacturing industries increased approximately 50 per cent, in mineral industries about 89 per cent, in railroads approximately 45 per cent, in electric light and power over 100 per cent.[19] When changes of this magnitude occur over the whole range of industry, the argument used to justify price reductions as a means of distributing productivity gains in an individual firm may be subject to qualification. Increased productivity may or may not result in increased production, depending upon the conditions responsible for the increase in productivity and upon the repercussions which a particular method of distributing the gains may have upon the marginal efficiency of capital, the marginal propensity to consume, and the rate of interest.

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[19] S. Bell, *Productivity, Wages, and National Income* (Washington, Brookings Institution, 1940), pp. 54, 72, 64, 79.

One of the most recent studies, dealing with changes in productivity which are nation-wide in character, comes to the conclusion that the benefits of increased productivity can best be distributed by passing on the savings in the form of lower prices to consumers.[20] The lowering of prices, it is contended, will induce and expand production and employment. Such a stimulus is lacking, it is claimed, when the only result of increased productivity is to transfer income from displaced labor to the labor remaining employed through the medium of wage increases, or to the owners of capital.

This conclusion would certainly seem to be valid—as we have seen—when applied to productivity changes within a particular firm, but it is questionable whether the same conclusions can be drawn when productivity changes extend over the whole economy. Recent developments in wage theory have indicated the fallacy of assuming that general wage reductions throughout the economy will have the same effect as a wage reduction in an individual firm. The same criticism applies to generalizing from the experience of a particular firm which has distributed productivity gains in the form of price reductions, to nation-wide productivity changes.

In examining the effect of productivity changes on the individual firm, we merely assumed that the change was attributable to "technological progress." The precise method by which the improvement in productivity manifested itself—whether by new investment, or by better combination of existing facilities—was not important. However, the effect of productivity changes which are nation-wide in scope will depend in large measure upon the means by which such improvements were effected.

Productivity Change Involving New Investment

Increased productivity may come about in several ways. In its most usual form it is the result of the introduction of new machines which constitute new investment. If this occurs, output and income will expand. Income will increase sufficiently so that, with a given propensity to consume for the community, a large enough volume of savings will be forthcoming out of the increased real income to maintain equality between savings and investment. Employment therefore is not likely to decrease unless the new machines are very labor saving.[21]

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[20] S. Bell, *Productivity, Wages, and National Income* (Washington, Brookings Institution, 1940), p. 183.

[21] Analysis along Keynesian lines cannot give us a definite answer to exactly what will happen to employment. For the volume of employment in the Keynesian system is given by the point of intersection between the aggregate demand function and the aggregate supply function, but both these functions are defined in terms of given techniques. The aggregate supply price of the output of a given amount of

Where increasing productivity is the consequence of new investment embodied in the form of improved machinery, distribution of gains through price reductions should be the most effective method of maintaining and expanding output, though perhaps not employment. It should be noticed, however, that the alternative policy of distribution to labor in the form of higher wages would not necessarily alter the outcome. Where there has been new investment, the real reason for the increase in output is the increase in the investment and the particular method of distribution is actually of secondary importance, except as it reacts on the marginal efficiency of capital, the marginal propensity to consume, and the rate of interest. The possible reactions of these variables will be considered below.

PRODUCTIVITY CHANGE INVOLVING NO NEW INVESTMENT

The most clear-cut test of the advantages of a particular mode of distributing the gains of increased productivity is afforded when the technical advance is unaccompanied by any new investment. This may be the case where replacement funds are used to finance technological improvement. Or the improvement in productivity may simply be attributable to a rearrangement of factors of production—or perhaps even to increased effort on the part of the worker because of improved plant morale. All of these circumstances would make possible an increased output from the given work force. A large part of the increased productivity of the thirties appears to have been of this type. Fixed capital, as we know, had risen all through the twenties. The increase in efficiency during this period was presumably due in large part to the installation of new and improved machinery and also to a more effective utilization of plant and equipment as a result of better internal organization. On the other hand, the volume of fixed capital investment declined in the early thirties and rose but slightly thereafter. Increased efficiency in this period was probably less a consequence of the installation of new and improved machines than of other factors which were not so important in the twenties. These are: improved organization, the discharge of less efficient workers, and the spurt to output which slack employment naturally entails. When increasing productivity is attributable to such circumstances, will reduction in prices "maintain and expand aggragate production and employment"?

Assume first that there is a general increase in productivity in the

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employment, says Keynes, is the expectation of proceeds which will just make it worth the while of entrepreneurs to give that employment. Changes in productivity, however, generally increase the *output of a given employment.* Since Keynes does not include output per worker as a variable in his system, his functions cannot determine the volume of employment, but only the amount of expenditure on employment. When output per worker changes, therefore, the functions cease to be uniquely determined. See J. M. Keynes, *The General Theory of Employment, Interest, and Money* (New York, Harcourt, Brace and Company, 1936).

capital goods industries with no net change in investment. Assume further that prices are perfectly flexible and that the interest rate, the marginal efficiency of capital, and the marginal propensity to consume remain unchanged. Prices of capital goods will fall. Since it has been assumed that the marginal efficiency of capital and the interest rate are unchanged, expenditure upon capital goods must remain constant. This means that under the restrictive assumptions of our model, the elasticity of demand for the capital goods industries will be equal to unity. But since prices of capital goods have fallen as a result of technological improvement, entrepreneurs in other industries will increase their purchases in physical amounts of machinery. As a consequence, output of consumers goods will increase. Now if the marginal propensity to consume of the community is less than unity, people will wish to save part of the increase in real income. But since investment expenditures, by assumption, have remained unchanged at the temporarily increased output, people will be trying to save more than is being invested. The result will be that a deflationary tendency will set in so that output will decline to its previous level. Output larger than the original one cannot be maintained unless the marginal propensity to consume of the public is equal to unity so that there is no gap between the increment of income and the increment of consumption, or if the reduction in prices following the increase in productivity has the effect of increasing the schedule of the marginal efficiency of capital relative to the interest rate so that investment increases.

If output falls back to its previous level, entrepreneurs, when they replace machinery, will buy the same physical amount as they had used prior to the reduction in capital goods prices. This implies that they will now spend a smaller amount of money upon capital goods than formerly. Hence investment and employment in capital goods industries will decline. The attempt to pass on the gains of productivity through lower prices must fail to maintain and expand aggregate production and employment unless there is some repercussion upon the marginal efficiency of capital, the rate of interest, or the marginal propensity to consume.

The same result follows if the increase in productivity occurs in consumers goods industries. Marginal costs of operation will fall and employers generally will be induced to increase output. For a time employment may be maintained. But unless the elasticity of demand for all commodities is equal to unity (that is to say, the marginal propensity to consume is equal to unity) entrepreneurs will be paying out in costs more than they are receiving in revenue. If the community saves part of the increase in real income, therefore, entrepreneurs will make losses and output will fall back to its previous level. Of course, it is possible that people will not wish to hold idle balances and so may use the increment in income to purchase securities, in which case the interest rate would fall and investment would expand. But ignoring these possible secondary repercussions for the moment, it appears that price reductions may not produce a permanent increase in output where productivity changes are unaccompanied by new investment.

This highly unrealistic and oversimplified theoretical model is useful for only one purpose: it teaches us that a reduction in prices is not particularly advantageous when that price reduction is economy-wide. One firm, one industry can obtain a "leverage" effect by reducing its prices, just as one nation can improve its position by devaluing its currency. But when the change in prices (or exchange rates) is general, it is not the price change *per se* which is the crucial factor, but rather the repercussions produced by this change on the marginal efficiency of capital, the marginal propensity to consume, and the rate of interest. When the problem is viewed in this light, it becomes evident that there may not be a "best way" of distributing the gains of increasing productivity.

We have already seen in Chapter 15 that the reaction of the marginal efficiency of capital, the marginal propensity to consume, and the rate of interest, to wage and price changes will depend upon the stage of the business cycle. Similarly, the behavior of these variables will be affected by the institutional setting in which price changes occur. Thus, for example, a falling price level might have been more favorable to investment 100 years ago than it is today when account is taken of the growth of unions and consequent wage and price rigidities. As a consequence, many economists, while recognizing the social and economic desirability of price reductions under certain circumstances, have concluded that conditions favorable to investment and employment in our modern economy can best be fostered by a money wage level which rises, but at a slower rate than technological progress would permit.[22] This would allow for some decline in the price level, which seems desirable in order that various fixed income groups can share in the rising productivity.

However, even if it is agreed that the level of money wages should rise as productivity advances, numerous problems still remain in connection with the manner in which the diverse changes in productivity in various industries are to be translated into specific wage adjustments. Changes in productivity typically show a wide dispersion. For example, from 1929 to 1940, output per man-hour in the production of beehive coke decreased

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[22] In a symposium of economists on postwar adjustments, Professors H. S. Ellis and A. Hansen advocated maintenance of a stable price level with all of the increase in average productivity translated into higher wage rates. Professor J. H. Williams, on the other hand, advocated that benefits of productivity be distributed only in part through higher wages, the rest in lower prices. See Paul T. Homan and Fritz Machlup (eds.), *Financing American Prosperity* (New York, The Twentieth Century Fund, 1945), p. 432.

6.4 per cent, while during the same period, man-hour productivity in the rayon industry jumped 275 per cent.[23] Obviously workers employed in the rayon industry should not be the sole beneficiaries of this spectacular increase in productivity. General wage increases should be made of an amount somewhat less than the average increase in productivity. In so far as increasing productivity is associated with increasing production and increased demand for labor, the industries showing the largest increases in productivity should have the highest wage increase. However, wages in these expanding industries should exceed wages for comparable occupations in other industries only by the minimum necessary to attract labor in the needed amounts.[24] On the other hand, in industries in which output and the demand for labor are declining,the increase in wage rates should be less than the average so that workers will be encouraged to move to other occupations. Although the increase in the general level of wages should reflect the average increase in productivity, the change in particular industries should be in accord with changing conditions of demand for labor rather than with trends in productivity alone.

In the cigar industry, for example, the advance in productivity has been considerable (man-hour output increased 80 per cent from 1929 to 1940), but it would be unwise to use this as a basis for giving the industry wage increases above the average, because employment and production have been declining ever since 1929.[25] In such cases, too high a wage rate simply attaches to the industry a larger number of job-seekers than basic employment conditions warrant. Since technological progress is frequently very rapid in new expanding industries (as, for example, in rayon production), union policies which seek to convert this high rate of productivity into wage increases retard the expansion of such industries and therefore limit the employment opportunities available to the economy as a whole. Wages should be raised at the pace, but not at the place, at which technological progress occurs.[26]

At the present time, the extent to which a union in a particular industry attempts to convert increasing productivity into higher wages seems to depend upon the bargaining area of the union (i.e., wage rates must not get too far out of line with those in non-union firms) and upon the competitive position of the firm in question (i.e., does it have a partial monopoly of the product, or is it highly competitive?). These criteria, while based upon pragmatic considerations from the union point of view may not be designed to produce an over-all wage structure which affords the largest volume of employment opportunities. It seems probable that rational decisions regarding wage levels require the coöperation of national unions in conference with equally representative organizations of management in the various industries.[27] The Labor Committee of the Twentieth Century Fund has recommended the establishment of a national management-union council on collective bargaining composed of representatives of the National Association of Manufacturers, the U. S. Chamber of Commerce, the CIO, and the AFL.[28] Perhaps eventually such a council might be able to conduct an annual study of productivity changes and lay down a general policy regarding size of wage adjustments which would then be translated into specific wage increases by various industry councils.

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[23] Bureau of Labor Statistics, *Productivity and Unit Labor Cost in Selected Manufacturing Industries, 1919–1940, a Report* (Washington, U. S. Department of Labor, February 1942), pp. 28, 90.

[24] S. Slichter, "Adjustment of Wages During Conversion," *Harvard Business Review*, **24**:72 (1945).

[25] Bureau of Labor Statistics, *Productivity and Unit Labor Cost in Selected Manufacturing Industries, 1919–1940, a Report* (Washington, U. S. Department of Labor, February 1942), p. 104.

[26] Fritz Machlup in P. T. Homan and F. Machlup (eds.), *Financing American Prosperity* (New York, The Twentieth Century Fund, 1945), p. 433.

The Labor Dilemma

For several generations, average output per man-hour in the United States has been rising between 2 and 3 per cent per year. A similar rate of increase is likely to occur in the near future. If labor, as a group, were to receive the entire benefit of this gain in productivity, real wages would rise only by 2 to 3 per cent per year. Should unions seek to raise money wages by more than 3 per cent per year, the amount of the increase in excess of 3 per cent would tend to be reflected in a rise in general prices. In other words, given a normal rate of technological progress, a stable price level can be maintained only if unions content themselves with annual increases in money wage rates not in excess of the rate of increase in man-hour output. Such increases in money wage rates would average 3 to 4 cents per hour.

When this rate is compared with the actual increases which have been secured in recent years by strong union pressure, it becomes evident that continuing inflation is an imminent possibility. Such a continuing rise in prices would not only endanger the value of savings, but also would produce a continuing decline in the standard of living for fixed income groups. These two consequences are packed with political dynamite, for the future of a free labor movement depends upon the stability and security of the middle class. Should this class conclude that labor unions are endangering its standard of living and security by producing an upward wage-price spiral, it might be led to sponsor and support restrictive measures which would spell the end of the free labor market as we know it.

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[27] C. S. Golden and H. J. Ruttenberg, *The Dynamics of Industrial Democracy* (New York, Harper and Brothers, 1942), pp. 154–155.

[28] See S. T. Williamson and H. Harris, *Trends in Collective Bargaining* (New York, The Twentieth Century Fund, 1945), p. 235.

An uncontrolled price level, therefore, threatens serious dislocations in our economic system as well as in the alignments of various sociopolitical groups. But the alternatives are equally unwelcome. To attempt to maintain a stable price level by means of price controls while leaving wage levels uncontrolled would produce unemployment as a result of the pressure of rising costs against a fixed price level. And to attempt to control labor, by dictating wage rates through government decree, would run counter to our democratic principles, at least in a nation which is at peace.

Thus, the United States faces a dilemma, the solution to which may have repercussions of international scope. There are three objectives which we, as a nation, prize: full employment, price stability, and a free labor market. The first is of obvious importance. The future of Europe and the continuance of democratic capitalism all over the world may well depend upon the success of this nation in warding off another decline of the nature of the 1933 debacle. The importance of price stability has already been examined. This objective too has international implications, since rising domestic prices make it increasingly difficult for foreign countries to buy our products and therefore may necessitate expanding loans on our part in order to finance these purchases by foreign nations. The result may be the building up of a situation—closely paralleling the state of affairs existing in 1929—in which a contraction of credit in the United States will bring down the whole world structure of trade.

The third objective is in many respects the epitome of democracy. A free labor market is inextricably associated with our notions of economic democracy, and furthermore, as a practical matter, we must recognize that enforcing wage controls in peacetime in a democracy is politically unfeasible.

Here then are three economic objectives, each of which is important and perhaps essential to the continuation of economic and political democracy in this country. Yet circumstances have so developed that we cannot achieve all three of these objectives. If we desire price stability and full employment, we cannot permit wage rates to rise without limit. If we desire full employment and a free labor market, we must sacrifice price stability. If we desire price stability and a free labor market, we must sacrifice full employment.

Thus a choice must be made. We must seize one horn of the dilemma. Yet whichever means we take, we run a serious risk to our democratic way of life. Political expediency will probably lead us to give up price stability, in order that full employment and a free labor market be preserved. It may well be that a rising price level is even desirable from the point of view of stimulating investment and employment. But the dangers inherent in a prolonged rise in prices are equally apparent. Much, of course, will depend upon the rate of climb in prices. This, in turn, will depend in large part upon the size of union wage demands. In the last analysis, the stabilty of capitalism and the continuance of our democratic way of life may hinge upon the restraint with which union leaders wield the great power which they now hold over wages and, indirectly, over commodity prices.

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The Economics of the Shorter Workweek

Historical Development

At the beginning of the nineteenth century, the situation of the working class in England was at its worst: hours of work were prolonged,[1] wages were at an extremely low level, and laws protecting labor were practically unknown. These intolerable conditions led many reformers and socialistic writers to attack the capitalistic system which seemed to them to condemn the worker to ever-increasing degradation and poverty. Thus Karl Marx wrote:

> Within the capitalist system, all methods for raising the social productiveness of labour are brought about at the cost of the individual labourer. . . . It follows, therefore, that in proportion as capital accumulates, the lot of the labourer, be his payment high or low, must grow worse.[2]

How far the critics erred in their prognostications is indicated by the spectacular growth of real wages in England and in the United States, the two capitalistic economies in which capital accumulation has been most rapid. In England, real national income per capita of occupied population practically doubled from 1850 to 1930.[3] In the United States, real wages doubled from 1840 to 1910.[4]

COMPETITIVE TENDENCY TOWARD HIGHER REAL WAGES

What critics of capitalism have overlooked is that a system of free enterprise tends to assure labor a rising level of real wages in the long run. The regulator which ultimately transmutes business profits into rising labor income lies in the mechanism of the competitive market for goods and services. That individual employers may be reluctant and even obdurate when it comes to raising money wage rates is immaterial. Employers are likewise reluctant to reduce prices, but the force of competition in the market compels them to do so. And it is through this secular reduction in prices[5] and improvement of the quality of goods that labor, along with all other groups in a competitive society, shares in the gains of increasing productivity attributable to technological advance.

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[1] By comparison with other countries, hours standards in England were relatively good. In 1840, the average working week was estimated at 69 hours in England, 78 in United States and France, and 83 in Germany. *Encyclopaedia of the Social Sciences*, vol. IV, pp. 480–481.

[2] Karl Marx, *Capital* (Chicago, Charles H. Kerr and Company, 1926), I, pp. 708–709.

[3] Colin Clark, *The Conditions of Economic Progress* (London, Macmillan and Company, 1940), p. 83.

[4] Alvin Hansen, "Factors Affecting the Trend in Real Wages," *American Economic Review,* **15**:32 (1925).

It is true that the pricing mechanism has not worked perfectly. Monopoly power, administered rigid prices, artificial tariffs—these are some of the more familiar impediments which have jammed the distributive process. But these imperfections have chiefly resulted from compromise of the fundamental principle of free competition, rather than from a failure of that principle itself. And the undeniable fact remains that despite restraints and interferences with competition, real wages in the United States have risen to levels higher than in any other country in the world.

If labor has been able to maintain and increase its real wage at the same time that hours of work have been diminished, the explanation must be sought in the contribution of the silent partner in the business of increasing labor productivity—the machine. Capital per worker in the United States doubled from 1850 to 1880[6] and increased threefold from 1880 to 1940.[7] It was this spectacular capital accumulation—a capitalistic phenomenon—which laid the basis for shorter hours with undiminished real earnings.

Until 1933, when organized labor was given the stimulating tonic of the New Deal, unions exerted comparatively little influence in the labor market. From 1897 to 1916 average trade union membership never exceeded three million for the whole nation; the average membership between 1918 and 1934 was only about three and one half million.[8] Except for a brief spurt in membership during and following World War I, only about 10 per cent of organizable employees were members of unions from 1910 to 1930.[9] Yet, as we have seen, this same period witnessed a substantial increase in the level of real wages. It is apparent, therefore, that the pressure of union demands is not an essential condition for a rising real wage level. This does not mean, however, that individual bargaining affords full protection for the worker, nor that collective bargaining is unnecessary. Indeed, as will appear in following discussions, there is some evidence that pressure by organized labor is necessary to achieve a shortening of the workweek. Moreover, it is clear that increase in real hourly earnings is only one objective of union activity. Even if unions were powerless to alter the rate of increase in real wages, they could still perform valuable services for labor by introducing law into industrial relations and making for a more orderly application of mechanical improvements.

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[5] Technological progress, by increasing the demand for labor, may also induce employers to offer higher money wages to obtain more labor. But even if employers resisted this tendency, real wages would still rise because of the increased output at lower cost of production.

[6] W. I. King, *The Wealth and Income of the People of the United States* (New York, The Macmillan Company, 1917), p. 145.

[7] S. H. Slichter, "Eight Errors in our Economic Thinking," *New York Times Magazine* (August 10, 1947), p. 1.

[8] Leo Wolman, *Ebb and Flow in Trade Unionism* (New York, National Bureau of Economic Research, 1936), p. 16.

[9] Leo Wolman, *Ebb and Flow in Trade Unionism* (New York, National Bureau of Economic Research, 1936), p. 116.

Union wage pressure may change the form in which rising real income is enjoyed—that is, union organization is likely to translate increasing productivity into rising money wages with near stable prices, whereas in a non-union economy the gains of productivity are perhaps more likely to be distributed in the form of falling prices and stable money wages. But regardless of the nature of their ultimate manifestation, real wages in a capitalistic society have shown a long-run tendency to rise as a result of the individual efforts of employers to secure a maximum profit.

COMPETITIVE TENDENCY TOWARD SHORTER HOURS

Can the same sanguine result be predicted with regard to shortening of the hours of work? Is there any long-run tendency in a capitalistic society toward shorter hours of work, or have the gains which have been scored in this direction been obtained largely through governmental regulation and the concerted efforts of organized labor?

A priori, an important theoretical distinction suggests itself: the twin objectives of higher real wages and shorter hours are not attained by the same economic paths. A hypothetical example will make this clear. Assume an economic society in which the labor market is composed of individual pools of labor with zero mobility between the various pools. (This might be the case if industry were located exclusively in small towns which workers were loath to leave even if wage rates were considerably reduced.) Assume further that each pool of labor is dependent for employment on one employer who takes advantage of his position by paying wages below the marginal revenue productivity of his workers and by maintaining this low wage level despite rising labor productivity incidental to technological progress. Under even these highly unrealistic assumptions, heavily weighted against labor, real wages would nevertheless show a tendency to rise, since the level of real wages is determined not only by competition in the labor market, but also by competition in the product market; and workers, even though deprived of the ability to obtain their full marginal productivity wage, are not thereby deprived of the full bargaining power which they exercise in their roles as consumers and final arbiters of the competitive process.

But does this twofold mechanism operate to reduce hours of work as it does to increase real wages? Suppose that as technological progress reduces unit costs, the employers in our hypothetical economy refuse to reduce hours of work and continue to work their employees the same hours as before. It is obvious that this will result in a greatly augmented output, consequent falling prices, and rising real wages. But there would seem to be no economic necessity that hours be reduced, except possibly as workers voluntarily agree to share work to relieve the burden of technological unemployment.

The conditions of this example are, of course, highly artificial. In reality, labor is not immobile and employers by and large are not monopsonists. Consequently, as capital accumulation increases the demand for labor, competitive bidding by large and small enterprises for the services of labor tends not only to raise their real wages, but also, to some extent at least, to reduce the hours of work. For the employer who makes the most attractive wage and hour offer will attract the best workers and this motive has inspired many far-seeing industrialists to champion the cause of the shorter workweek.

Nevertheless, examination of the history of the shorter hour movement in the United States suggests that the purely *competitive* tendency toward shorter hours has evidenced itself with much less vigor than the tendency toward higher real wages. Indeed, as late as 1922, the steel industry—the basic industry of our twentieth century economy—had so far resisted any trend to shortening of hours that the 12-hour day continued to be customary practice in the mills, due, in part, to the large proportion of immigrants in the labor force. In 1919, the year that 300,000 steel workers struck in vain for the elimination of the 12-hour day, average weekly hours were 68.7[10] and an estimated 52.4 per cent of United States Steel Corporation employees were on a 12-hour shift.[11] As late as May, 1923, the American Iron and Steel Institute declared that elimination of the 12-hour day was not feasible, but adverse public opinion finally compelled the industry to reverse itself.[12]

The Technological Basis for Shorter Hours

As a historical development, shortening of hours of work has involved a dual process. On the one hand, certain factors have made possible a shortening of working time without any impairment in the standard of living of the mass of workers. On the other hand, certain forces have been most active in translating this possibility into reality. It will be convenient to consider the history of the shorter hour movement from these two points of view.

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[10] M. C. Cahill, *Shorter Hours* (New York, Columbia University Press, 1932), p. 211.

[11] Commission of Inquiry, Inter-Church World Movement, *Report on the Steel Strike of 1919* (New York, 1920), pp. 49, 71.

[12] M. C. Cahill, *Shorter Hours* (New York, Columbia University Press, 1932), p. 215.

As far as the real basis for shorter hours is concerned, there can be little room for argument. Union organization *per se* certainly can claim no magic elixir by which it can create shorter hours for labor with undiminished *real* weekly earnings. Of course, through bargaining power, unions can obtain shorter hours of work with undiminished *money* earnings; but this will simply produce a general rise in unit labor costs and prices throughout the economy. The reduction in hours of work, unless compensated by increased labor effort, will diminish the total aggregate of real output. Consequently even if labor's money earnings are maintained, the decline in production and rise in prices will reduce labor's real wage.

The statement is sometimes made that the increasing productivity *of labor* has made possible a shortening of hours of work over the years. Does this mean that employees by and large work harder or put forth more effort today than they did 50 years ago? Or are workers more productive today because the labor force on the average has a higher degree of skill? Neither of these possibilities affords the real explanation for the growth in labor productivity. Indeed, the term "labor productivity" is something of a misnomer. Actually, as noted in Chapter 3, it is simply a statistic obtained by dividing output by man-hours worked. The fact that the resultant quotient is termed "*labor* productivity" should not be interpreted as implying that labor, rather than other factors, is responsible for any increase in the value of the figure. Rising labor productivity is largely a manifestation of the joint contribution of increasing capital, improved managerial technique, and scientific advance.

Shorter hours and higher pay in American industry have resulted from application of labor-saving machinery and improved production methods which have enabled the American worker to produce greater quantities of goods in less time than workers in any other country of the world. In 1940, capital per worker was three times as large as in 1880.[13] Capital per worker thus has been growing at the rate of about 2 per cent per year. At the same time, output per worker has been increasing between 2 and 3 per cent per year.[14] Labor in the aggregate has become more productive because it has been used in roundabout "capitalistic" processes to fashion tools and build machines,[15] rather than to concentrate on consumers goods and leave labor to work unaided by technology. Science and saving are the two partners which have set the technological basis for shorter hours in industry.

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[13] S. H. Slichter, "Eight Errors in Our Economic Thinking," *New York Times Magazine* (August 10, 1947), p. 1.

[14] S. H. Slichter, *The Challenge of Industrial Relations* (Ithaca, Cornell University Press, 1947), p. 77.

[15] See E. von Böhm-Bawerk, *Positive Theory of Capital* (New York, G. E. Stechert and Company, 1930) for the classic exposition of this process.

History of the Shorter Hour Movement

The second aspect of the hours problem is subject to more controversy. Admitting that capital accumulation has made possible the shortening of hours, would it have materialized had it not been for the agitation of organized labor and liberal groups, and the legislation of state and federal governments? According to one well-known writer on labor problems, most employers have shortened the workday or workweek only under some sort of compulsion—from the state or their fellow employers, or unions.[16] We have already noted that the competitive tendency toward shorter hours may manifest itself with somewhat less vigor than the tendency to higher real wages. Does the historical development of the shorter hour movement in the United States shed any light on this problem?

One of the earliest manifestations of the shorter hour movement was in the form of a resolution adopted by the journeymen carpenters of Philadelphia who in 1791 declared that a day's work should last only from 6 A.M. to 6 P.M. But the mores of an agricultural society accustomed to labor from dawn to dusk—and believing that idle time was an invitation to the devil—had too strong a grip on the young industrial community. As a consequence the 14- to 16-hour workday continued to be commonplace. The various trade union societies, however, continued to agitate for shorter hours and in 1840, as a result of their successful lobbying, President Van Buren signed the bill establishing the 10-hour day in government navy yards. This lead, however, was not quickly followed by industry. In some localities, the building trades and other craftsmen secured the 10-hour day in 1845, but with the exception of these skilled trades and child labor legislation in certain states, the 12-hour day continued to be the rule until the Civil War.

The period following the Civil War was marked by special interest in shortening the hours of work. The postwar depression had produced unemployment which was further aggravated by the return of soldiers to their civilian occupations. The growth of the national unions during this period provided a medium by which labor's fears could be made articulate. In the 1880's, the shorter hour movement received a strong impetus from the sponsorship of the Knights of Labor, which at the peak of its power succeeded in obtaining the 8-hour day for more than 200,000 men.[17]

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[16] C. R. Daugherty, *Labor Problems in American Industry* (New York, Houghton Mifflin Company, 1941), p. 196.

[17] For a revealing study of the Knights of Labor, see the autobiography of its leader, Terence Powderly, *The Path I Trod* (New York, Columbia University Press, 1940).

However, the gain was only temporary. With the demise of the Knights, the 10-hour day again became customary, except for certain strategically situated skilled groups which were able to use their bargaining power to secure shorter hours. Thus, not long after the formation of the American Federation of Labor, the carpenters and bricklayers won the 8-hour day in many cities, and in 1916 the Big Four Railroad Brotherhoods, by threatening a nation-wide tie-up, secured passage of the Adamson Act guaranteeing the 8-hour day for operating crews of railroads.

The high demand for labor during and immediately following World War I was reflected in reduced hours as well as in higher money wages. Average hours in all manufacturing fell from 55 hours in 1916 to 51 hours in 1920, the most rapid gain secured in the shorter hour movement up to that time.[18] In 1919, the spectacular strike against the 12-hour day in the steel industry mobilized public opinion behind the shorter hour movement, but it was not until 1923 that the steel industry finally succumbed to this pressure and introduced three 8-hour shifts. In 1926 the American Federation of Labor adopted a resolution in favor of the 5-day workweek and in 1927, Henry Ford inaugurated the 5-day workweek in all his plants. By 1929, the 8-hour day was firmly established in American industry, although the average workweek continued to be 6 days.

The mass unemployment of the great depression brought new urgency to the shorter hours movement. Labor viewed the shorter workweek as a means of spreading available jobs over more persons and thus reducing the volume of unemployment. In some industries, the larger manufacturers were interested in finding a means of compelling small competitors to go along in a program of shorter hours and curtailed output. The result was the NRA with its industry codes. Under these codes, the 44-hour week was established in most industries and an important minority—among them electrical equipment, men's and women's clothing, coal, fur, petroleum refining—established the 36-hour week.[19] It is estimated that as a result of these provisions, most employees covered by the codes received reductions in hours ranging from 8 to 10 hours a week.[20] In 1938, the Fair Labor Standards Act was passed, the effect of which was to make the 40-hour week standard by October 1940 for most workers engaged in interstate commerce.[21] Hours worked above the maximum of 40 hours were required to be remunerated at time and a half.

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[18] P. Douglas, *Real Wages in the United States, 1890–1926* (New York, Houghton Mifflin Company, 1930), p. 116.

[19] C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 22 (Bloomington, Indiana, The Principia Press, 1937), p. 132.

[20] *Technology in Our Economy*, TNEC Monograph No. 22 (Washington, 1941), pp. 167–168.

[21] For analysis of the scope and effect of the Act, see P. Douglas and J. Hackman, "The Fair Labor Standards Act of 1938," II, *Political Science Quarterly*, **54**:29–55 (1939).

The labor shortage caused by the manpower demands of World War II resulted in some lengthening of the workweek, but as of May 1947 the average hours worked per week in manufacturing industries stood again at approximately 40.[22] An increasing number of unions in the immediate postwar period put themselves on record in favor of a further shortening of the workweek to 35 or 30 hours. Unions in the railroad and coal mining industries—two industries which have witnessed the rapid encroachment of labor-saving machinery—have stated their objective to be the 6-hour day. The Railroad Employees Department of the American Federation of Labor has asked for a 36-hour week with 48-hour compensation. In 1945, a New York local of the Typographical Union negotiated a contract providing for a 27 per cent increase in take-home pay and the reduction within 6 months of a 40-hour week to 36 hours.[23] As early as 1939, the Annual Convention of the Congress of Industrial Organizations adopted a resolution recommending:

> A further shortening of the number of hours of work per day and the total number of hours per week without any decrease in established wages . . . until the goal of a six-hour day and a thirty-hour week is reached.[24]

Basic Factors Affecting the Trend Toward Shorter Hours

This brief historical survey suggests that three classes of factors have influenced the movement toward shorter hours of work in American industry. The first may be called "social," including the impact of habit and custom. The mores inherited from a primarily agricultural pioneering community undoubtedly contributed to the view, so prevalent during the early years of the struggle for shorter hours, that work was a blessing and that long factory hours were a virtue rather than a vice. Similarly, the mixing in the labor market of immigrants with habits of work inherited from industrially backward nations rendered large masses of the working population relatively indifferent to the shorter hour movement.

The second factor has been the influence of governmental legislation, both state and federal. Legislative regulation of hours has been of some importance—more particularly in recent years—but at least in the early phase of the shorter hours movement, its influence was negligible since most well-intended legislative attempts to regulate hours, other than those of federal employees, were declared unconstitutional. The Supreme

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[22] *Monthly Labor Review,* **65**:247 (1947).

[23] *New York Times,* November 13, 1945, p. 14.

[24] *Daily Proceedings of the Second Constitutional Convention, San Francisco* (Washington, Congress of Industrial Organizations, 1939), p. 110.

Court at first took a very narrow view of the scope of the police power as it applied to regulation of hours of work. Thus, if the long hours bore a very direct and unmistakable relation to public health, the regulation would be upheld,[25] but for industry in general, it was thought that hours regulation was an unconstitutional invasion of the right of employer and employee to contract freely. It was not until 1937, when the Supreme Court handed down its decision in *West Coast Hotel Co. v. Parrish* (300 U. S. 379), that constitutional objections can be said to have been removed from state attempts to lay down general wage and hour standards applicable to employees in intrastate commerce without regard to sex or nature of occupation. But, by this date, the average workweek had already been reduced to 34.5 hours.[26]

The third type of factor which has affected the shorter hour movement is the economic, which may be classified further into four components: (a) the bargaining strength of labor; (b) the bargaining strength of employers; (c) the type of employment; and (d) the general level of economic activity. Thus we have seen that labor in the skilled building trades, by virtue of its strategic bargaining power, has constantly been able to win shorter hours well in advance of the national trend. On the other hand, where labor has been relatively unskilled and unorganized and has been confronted by large and powerful aggregations of capital—as in the steel industry—hours have remained long, behind the general trend.

The record of particular industries in the movement toward shorter hours is, of course, in large part a reflection of peculiar technological and demand conditions associated with a certain type of employment. Thus, one might expect that seasonal industries, where spoilage and other factors require peak production during a relatively short period,[27] would encounter greater difficulty in reducing hours of work than the building industry. And finally, the frequent recurrence in our industrial development of depression periods with large-scale unemployment has probably tended to organize public opinion behind the shorter hour movement as a means of reducing unemployment.

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[25] Thus in *Holden v. Hardy*, 169 U. S. 366 (1898), the Supreme Court upheld a Utah statute which fixed an 8-hour day for employment of men in underground mines. But seven years later in *Lochner v. New York*, 198 U. S. 45, it held invalid a New York statute limiting employment in bakeries to a 10-hour day or 60-hour week.

[26] U. S. Bureau of Labor Statistics, *Labor Information Bulletin*, **5**, 2:17 (1938). This figure is unusually low because of the job scarcity produced by the recession of 1937–38.

[27] Although these factors are characteristic of the canning industry, that industry has made a spectacular reduction in hours of work. The working week was reduced from 76.8 hours in 1890 to 52.9 in 1929. But these difficulties still render short hours unprofitable. See P. Taft, *Economics and Problems of Labor* (Harrisburg, Pennsylvania, Stackpole Sons, 1942), p. 340.

The Role of Union Organization

What effect has union organization had upon the rate at which hours of work have been reduced in American industry? Here, as in wage rate comparisons, caution must be exercised in drawing conclusions from statistics of hours of work in "union" and "non-union" industries. In 1890, according to one calculation, workers in "unionized industries" had on the average a standard workweek of 54.5 hours while those in "non-unionized or payroll industries" worked a standard week of 62.2 hours. (See Table 22.) These figures are sometimes cited as indicating the effectiveness of union organization in securing shorter hours of work for union members. Actually, however, these statistics represent not the effect of a single variable—collective bargaining—but rather of a complex of factors.

In 1890 the number of industries which could be called unionized was so small relative to the total that any average derived from this small group is more indicative of the peculiar adaptation of these industries—chiefly the building trades—to the hours problem, than of the gains attributable to organization *per se*. Moreover, it is probable that even if labor were not actually organized into unions in these industries, the skilled workers in them would have fared better than the rest of the work force simply because the demand for their relatively scarce services would have enabled them to require better hours as part of the price for their services.

Table 22

AVERAGE AND RELATIVE HOURS PER WEEK IN UNION AND NON-UNION INDUSTRIES*
(1890–99 = 100)

	Average Hours		*Relative Hours*	
	Non-Union	*Union*	*Non-Union*	*Union*
1890........	62.2	54.4	100	101
1895........	62.3	53.5	100	100
1900........	62.1	53.0	100	99
1905........	61.1	51.1	98	95
1910........	59.8	50.1	96	93
1915........	58.2	48.6	94	91
1920........	53.5	45.7	86	85
1925........	52.2	45.9	84	85

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* Statistics are derived from P. Douglas, ***Real Wages in the United States, 1890–1926*** (New York, Houghton Mifflin Company, 1930), pp. 112–115. Non-union figures are Douglas' "payroll industries." These include cotton, woolens, hosiery, and knit goods, men's clothing, boots and shoes, lumber, iron and steel, and meat packing. The union rates are compiled by Douglas for seven industries: building trades, foundries and machine shop, marble and stone work, book and job printing, newspaper printing, mill work, and baking.

Nevertheless, even though the actual difference in hours worked between the so-called "union" and "non-union" groups is robbed of significance by the deficiencies in sampling, the movements from year to year in the two groups are highly interesting. Contrary to what might be expected, the union industries made no greater gains in securing shorter hours than did the non-union industries.

It will be seen from the above table that union hours decreased 15 per cent from the 1890–99 average whereas non-union hours of work decreased 16 per cent in the same period. It would be equally erroneous, however, to conclude from these comparisons that the effect of union activity on the shorter hour movement has been negligible. The gains made in the "non-union" group reflect in large part the sizable reduction in hours made by the steel industry—from 66 to 68 hours in 1919 to 55 in 1924.[28] This reduction was directly attributable to the spectacular steel strike of 1919, in which the old Amalgamated Association of Iron, Steel, and Tin Workers organized over a quarter of a million union members, but finally lost the strike.[29] In addition, organized labor, through its lobbying pressure in state and federal legislatures, has brought remedial governmental regulation to many unskilled groups, which because of inadequate bargaining power and backward management had lagged behind the rest of the economy with regard to reduction in hours of work.

There also remains the question of whether these data provide an accurate comparison of union and non-union industries. In reëxamining them to determine the effect of unionism on earnings, Dr. Arthur Ross found substantial reason to believe that they did not make a valid union-non-union comparison.[30] It is quite possible that these data would be found equally unsatisfactory if reëxamined for a comparison of hours in union and non-union industries.

In sum, although union organization has aided particular groups in the labor market to obtain shorter hours more rapidly than the rest of the labor force, and although the union has had considerable effect in dramatizing the shorter hour movement in the public mind, on the whole union organization cannot claim the major share of the credit for the reduction in hours of work in American industry. When it is considered that until 1930 (with the exception of a brief period during World War I), union membership in the United States never exceeded 10 per cent of organizable employees,[31] it appears that the effect of union organization upon the rate of reduction of hours in industry has not been as important as the functioning of the competitive market mechanism.[32]

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[28] P. Taft, *Economics and Problems of Labor* (Harrisburg, Pennsylvania, Stackpole Sons, 1942), p. 114.

[29] H. A. Millis (ed.), *How Collective Bargaining Works* (New York, The Twentieth Century Fund, 1942), p. 511.

[30] A. M. Ross, *Trade Union Wage Policy*, (Berkeley, University of California, 1948), pp. 128–132.

[31] Leo Wolman, *Ebb and Flow in Trade Unionism* (New York, National Bureau of Economic Research, 1936), p. 115.

ARGUMENTS IN FAVOR OF A REDUCTION IN HOURS OF WORK

Five principal arguments are customarily advanced by proponents of the shorter workweek:

1. *Shorter hours are essential to good citizenship.* Political democracy assumes an intelligent electorate. If hours of work are shortened, employees will have more time to read, to enlighten themselves as to national and world events, and possibly to take extension courses. This argument undoubtedly had greater weight at a time when the 12-hour day was the rule. An 8-hour day and a 40-hour week would seem to leave time for study and self-development for most workers. However, in industries requiring strenuous physical exertion or sustained concentration, it is possible that a reduction in hours would produce greater interest in education and self-improvement, though on the whole it would seem that such interest is often more closely related to individual inclination and initiative than to the length of the workweek.

2. *Shorter hours are necessary to protect the health of the worker.* This too is an argument which carried more weight 50 years ago than it does today. Most of the industrial states have maximum hour laws regulating the hours of work of women and children. Nevertheless, in particular localities conditions may still exist which menace the health of the worker. For example, in 1937 a Florida survey of a number of industries indicated that 40 per cent of the women and 12 per cent of the men worked more than 54 hours a week.[33] While such long hours have been largely eliminated from interstate industries by the Fair Labor Standards Act (which makes the 40-hour week standard for most employees engaged in interstate commerce or producing goods for interstate commerce), conditions harmful to the health of workers may still exist in intrastate industries in some areas.

3. *Increased leisure would stimulate the demand for the products of industry.* This is a frequent union argument. Thus the President of the American Federation of Labor has stated:

> With the increased leisure which would come with the adoption of the thirty-hour week, and with the increased purchasing power which would

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[32] While union organization has not had a very significant effect upon the rate of reduction in hours of work, the shorter hour movement itself had a very direct impact upon the development of labor organization. It was the demand for the eight-hour day which led to the formation of the first national labor organization in America—the National Labor Union, which was founded in 1866.

[33] Women's Bureau, *Wages and Hours in Florida Industries* (Washington, U. S. Department of Labor, 1938).

> come from the maintenance of earnings, the workers would have time and money to function as consumers of the products of industry.[34]

Although labor leaders customarily overemphasize the purchasing power aspect of wages without sufficient attention to its reaction on costs, there is undoubtedly a significant truth in the above statement. A laborer who is employed 12 hours a day would not be a very good customer for modern industry. He would need only food, clothing, and shelter. But modern industry can fill these basic needs so easily that the only way it can keep its productive capacity fully occupied is to pour forth the profusion of luxuries, semiluxuries and miscellany which constitute the distinctive content of the American standard of living.[35] A shortening of the working day, so long as it does not impair earnings, may make the worker a better customer for these "essential non-essentials" of modern capitalistic production.

On the other hand, it can be argued that the average worker is already as good a customer as can be expected, inasmuch as he spends practically all of his income on consumption goods. Therefore, although increasing leisure may alter the nature of his expenditures, it is difficult to see how it would act to increase his total expenditures. Moreover, for many union members, the shorter hour movement is simply a device to increase overtime pay. Obviously, where the actual hours worked are not reduced but simply made more expensive, the increasing leisure argument is not applicable.

4. *Shorter hours would increase the efficiency of labor.* It is frequently argued that reduction in the hours of work would produce such an increase in man-hour output that the rise in costs incurred by maintaining earnings for the shorter work schedule would be offset. Thus both employee and employer would benefit from the reduction in hours. Undoubtedly fatigue and accidents increase in proportion to the length of the hours of work. Recent studies indicate that hours of work of approximately 8 per day and 48 per week are the *maximum* for efficiency,[36] and that an 8-hour

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[34] William Green, *The Thirty Hour Week* (Washington, American Federation of Labor, 1935), p. 14.

[35] A characteristic of our economic development has been the increased emphasis upon style rather than on durability. Could our factories keep busy if clothes, shoes, automobiles, and other articles were designed simply to last the longest possible time? Frequent style changes may be essential to full utilization of our technological resources. If labor were employed 12 hours a day, the average worker would probably be more interested in durability as regards clothes and other articles. The interrelationships between leisure and style factors are as yet unexplored; it does, however, seem possible that the increased leisure makes the style factor more acceptable to the consumer. For one thing, the employee who works short hours receives a greater saturation of advertising over the radio, on billboards, and in newspapers, and this may make him style conscious.

[36] *Monthly Labor Review*, **54**:1099 (1942).

day and a 40-hour week is generally the optimum work schedule.[37] Above 48 hours, fatigue becomes a compelling consideration. Reduction in hours in the range between 48 and 40 per week has been accomplished by some companies without any loss in total weekly output because of the increase in output per man-hour.[38]

Very few empirical studies, however, have been made of the effect upon efficiency of a reduction in hours below 8 per day and 40 per week.[39] While productivity *per hour* probably would increase in most occupations as a result of such reduction, it seems doubtful whether it would show a sufficient improvement so as to keep output *per day* or *per week* from falling. It is a well-known fact that even in short working days the first and last hours are the least productive due to "getting into the swing" and "getting ready to stop." If the day is shortened from 8 to 6 hours, these two relatively inefficient hours now become one-third of the total working time and productivity in the other hours would have to increase considerably to make up for them as well as for the 2-hour decrease in the length of the day.[40]

There is one other aspect of the problem of industrial efficiency which is often slighted in discussions of the hours problem, probably because it is primarily of sociological rather than economic significance. This is the problem of efficiency over the worker's lifetime. If workers were tied to their employers by lifetime contracts, employers would be motivated to use their services at a rate which would result in the greatest efficiency per lifetime, rather than per man-hour. But under our economic system, labor factors are freely substitutable, and the employer who speeds up the line is unconcerned by the fact that the fatigue so caused may shorten his employee's working life.

The statement is frequently made that there is a continuing economic pressure in competitive industry toward that length of workday and workweek which is most efficient.[41] This proposition, though perhaps true in a narrow economic sense, may be erroneous when the problem of efficiency is viewed in a broader social perspective. In appraising the economic consequences of union organization, it should be recognized that, although strategically placed workers may reduce the hours of work below the level at which maximum hourly output is to be achieved, the working life of these men may thereby be prolonged so that society has longer use of their skills.

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[37] *Monthly Labor Review,* **65**:5 (1947).

[38] See *The Five-Day Week in Manufacturing Industries* (New York, National Industrial Conference Board, 1929), pp. 41–42.

[39] One investigator observed the output of millmen, rolling red hot tinplate bars into sheets of steel, when they were working on 8-hour, 6-hour, and 4-hour shifts. He found that on the average, the hourly output of the men on 6-hour shifts was only 10 per cent greater than that observed when they were on 8-hour shifts, while it was 11.5 per cent greater when they were on 4-hour shifts. The men were on piece rates, so there was an inducement to increase their output so as to maintain earnings; they were still unable to speed up production sufficiently to maintain their total output when hours were reduced. See H. M. Vernon, *Industrial Fatigue and Efficiency* (New York, E. P. Dutton and Company, 1921), pp. 86–87.

[40] A. L. Meyers, *Modern Economic Problems* (New York, Prentice-Hall, 1939), p. 236.

[41] See Dale Yoder, "Comment on Mr. Graham's Note," in Communications, *American Economic Review,* **35**:437 (1945).

5. *Shorter hours would make more jobs and expand employment.* Concern over displacement of labor by machinery and fear of recurrent business depressions with their attendant large-scale unemployment have brought this argument to the fore in labor's thinking. Because of the importance of this argument in motivating governmental regulation as well as union policy, it will be considered in detail in the following section.

Shorter Hours and Employment

Although capital and labor have frequently been in substantial agreement with regard to the first four propositions examined above, it is on the question of whether or not reduction in hours increases employment that their respective views have come most sharply into conflict. The precise relationship by which shorter hours would increase employment has assumed varying forms in labor's arguments over the years, but that it would reduce unemployment has remained a basic tenet of labor philosophy. In the early days of the American Federation of Labor, its leaders were imbued with the idea that standard of living determined wages and that a reduction in hours, by providing leisure and increasing consumption demands of workers would increase the wage level and stimulate production and employment. By 1909, however, productivity analysis had taken hold of union thinking and the argument now ran that increasing per capita production made desirable a reduction in hours so that labor could share in the gains of industrial progress.[42] In recent years, the notion that high wages are necessary to sustain consumption and avoid depression has become increasingly prominent in labor thinking.[43] It remains to be determined whether labor leaders start with a problem, namely unemployment, and then see in shorter hours a remedy, or whether they start with a preference, namely shorter hours, and seek to rationalize or justify this preference, finding in technological and other forms of unemployment a convenient argument to fit their purpose.[44]

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[42] H. R. Mussey, "Eight-Hour Theory in American Federation of Labor," in J. B. Hollander (ed.), *Economic Essays Contributed in Honor of John Bates Clark* (New York, The Macmillan Company, 1927), pp. 229–243.

[43] See, for example, "Reuther Challenges Our Fear of Abundance," *New York Times Magazine* (September 16, 1945), p. 8.

[44] Professor Sumner H. Slichter of Harvard University suggested this problem in a letter to one of the authors.

At any rate, reduction in hours of work has had a long history of advocacy by labor and is likely to be argued with vigor again in the future.

There are two points of view from which reduction in hours of work per day or per week can be examined as a remedy for unemployment. The first is the effect of a reduction in hours without a change in the basic wage rate, so that those workers previously employed now receive fewer hours of work and correspondingly reduced earnings. The second is the effect of a shortening of hours with compensatory increases in basic rates so that earnings for the shorter working time remain undiminished.

SHORTER HOURS WITH UNCHANGED BASIC WAGE RATES

With regard to the first possibility, it is obvious that jobs can be provided for the unemployed if employed workers are willing to reduce their hours and sacrifice their pay, but such a plan would involve a general reduction in the standard of living of all employed workers. This solution is unacceptable to labor as a long-run proposition, although in particular industries during depression, share-the-work plans have been inaugurated to spread the available work among the widest number of union members. The needle trades unions, the boot and shoe workers, the textile workers, and the brewery workers customarily follow the equal division of work principle to spread out the burden of unemployment.[45] The danger of such a policy is that if the unemployment is not cyclical, but rather represents a permanent decrease in the demand for labor in a particular industry, a share-the-work policy based upon reduced hours of work attaches an unduly large supply of labor to the industry and converts the union into an instrument for reducing the standard of living of its members.[46]

Nevertheless the basic idea that if hours are only reduced far enough, work can be provided for all, is an important element in union thinking regarding the problem of technological change. This viewpoint is well expressed in the following extract from the *American Federationist*, official publication of the American Federation of Labor, written at the bottom of the great depression:

> If the work week were universally thirty hours instead of forty-two, 23,000,000 persons would be employed to furnish 700,000,000 manhours of work. This would give jobs to 6,600,000 now out of work and leave 1,700,000 still unemployed. . . . A twenty-eight-hour work week would give work to all.[47]

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[45] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 112.

[46] This danger is faced by the bituminous coal miners, the leather workers, and the New York live poultry industry. S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 138.

[47] "The Thirty Hour Week: Recovery Standard." *American Federationist*, **40**:182 (1933).

In actuality, however, the effect of shortening hours without compensatory adjustments in wage rates cannot be assessed by a mere arithmetical calculation. For example, it might be thought that as long as basic rates are unchanged, unit labor costs should likewise remain constant. But employers will have to add new workers who will require training and who may be less skilled than those already employed, so that the immediate effect of the plan is probably to produce some decline in the efficiency of labor. Moreover, in some industries work sharing produces technical difficulties because where two groups of workers use the same machines, they are less likely to leave them in as good shape as if they use them exclusively. In the coal industry, for example, work sharing is usually accomplished only by alternating groups of workers. Considerable difficulty has been caused by the tendency of the group finishing work to leave timbering to be done by the next group.[48]

But even if unit labor costs do not change, capital costs per unit of output will be increased in those plants which operate fewer hours per week after the shorter hour program is inaugurated. Since fixed costs do not affect marginal costs, this change will not immediately alter the volume of employment. But the rise in fixed costs per unit will force marginal firms out of business and thus add to the amount of unemployment. Moreover the reduction in profits in all plants will make entrepreneurs somewhat more reluctant to invest, and therefore in the long run the level of employment may be further reduced.

On the demand side, the shortening of hours of work of employed labor may provide job opportunities for persons formerly on relief or receiving unemployment benefits. Whether this change will react favorably on consumer demand is arguable. Distribution of work may lead to an absorption of vacant housing through an increased number of marriages and undoubling of families. This should shortly lead to an increased demand for residential construction. Something like this may have happened in 1933 as a result of the shortening of the work week. Vacancy declined from about 14 per cent to 5 per cent from 1933 to 1934.[49] However, the shortening of hours in 1933 was accompanied by wage adjustments so that the results may not be applicable to mere work sharing *per se*. Where there are no compensatory wage adjustments, the earnings of those formerly employed full time will be reduced, and therefore an increase in consumer demand can only follow if the newly employed workers greatly expand purchases over what they had consumed while on the government payroll.

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[48] S. H. Slichter, *Union Policies and Industrial Management* (Washington, Brookings Institution, 1941), p. 138.

[49] C. Roos, "Economic Theory of the Shorter Workweek," *Econometrica*, 3:39 (1935); also, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 153.

REDUCTION IN HOURS WITH COMPENSATORY WAGE INCREASES[50]

On the whole, a program of shorter hours is unacceptable to labor unless it is accompanied by compensatory wage adjustment so that labor income is maintained. In advocating such a policy to reduce unemployment, organized labor has shown its customary bias in emphasizing the role of demand conditions and ignoring the more immediate repercussions of the increased hourly price of labor on costs and business profits.

Employers, by and large, can be expected to react to a program of reduced hours with compensatory hourly wage increases as they would react to any increase in marginal cost. Prices will tend to rise, a smaller output will be demanded, and ultimately a new equilibrium will be established at a lower level of output. In order to think this through, let us assume that the demand for labor under these circumstances in a particular firm has an elasticity of unity. If the union raises hourly rates 5 per cent and reduces hours of work by 5 per cent, it will have duplicated the readjustment that the employer himself would have made to the changed cost conditions. But since a new equilibrium has been established at the higher unit price of labor, there is no incentive to hire any additional labor. It is therefore clear that if the demand curve for labor in a particular firm has an elasticity of unity or greater, the reëmployment objective of the shorter hour movement must fail of accomplishment.

The precise value to be assigned to the elasticity of demand for labor has been the subject of some controversy among economists. On the whole, it seems likely that in depression periods when management is extremely sensitive to cost increases of any kind, the demand for labor is elastic at least in an upward direction. One statistical study has found that the elasticity of demand for labor for the economy as a whole has had a value of approximately -4.[51] While there is room for disagreement as to the precise value of the elasticity of demand for labor, it seems likely that the reduction in hours must be substantially greater than the percentage increase in hourly wage rates if the immediate effect of the institution of the shorter working week is not to increase the volume of unemployment. The effect of the shorter hours of work with compensatory wage adjustments will depend upon the relation between three factors: (1) the percentage decrease in the hours of work; (2) the percentage increase in hourly rates; and (3) the elasticity of demand for labor.[52] Thus, if the elasticity of demand for labor were equal to -2 (i.e., the volume of employment diminishes 2 per cent with each increase of 1 per cent in wage rates), and if the increase in hourly rates were 5 per cent, then the percentage reduction in hours would have to be more than 10 per cent if more workers are to be hired.[53]

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[50] This aspect of the shorter hour movement raises the same problems as were discussed in the chapter on Wage Changes and Employment. The problem might be attacked either from the point of view of the particular firm, or in general terms, following the Keynesian analysis. The former approach is adopted here, because reduction of hours typically proceeds industry by industry, rather than generally throughout the economy, and hence particular analysis makes possible a more realistic appraisal of the possible consequences.

[51] P. Douglas, *Theory of Wages* (New York, The Macmillan Company, 1934), p. 152. The significance of the statistical conclusions of this study has been the subject of considerable controversy in the literature. See, for example, discussions by S. H. Slichter and J. Black in *American Economic Review*, **18**:168–172 (1928, supplement); H. Menderhausen in *Econometrica*, **6**:143–158 (1938); D. Durand in *Journal of Political Economy*, **45**:740–758 (1937).

Effect of Increasing the Number of Shifts

More promising as a means of converting unemployment into leisure is the 6-hour shift, provided that the 6-hour shift means the use of two or more shifts per day. Suppose, for example, that a plant in a continuous process industry has been accustomed to run continuously for 5 days a week, using three 8-hour shifts. If this plant were to change to four shifts of 6 hours each, it would appear that employment would be increased. However, if each worker, now employed a shorter number of hours, wishes to keep his pay undiminished, it is evident that there will be a rise in labor cost per unit, despite the fact that the number of shifts has increased. The increased labor costs will be reflected in higher prices and a reduced total output, so that ultimately no permanent increase in employment will result from this changeover.

But there are circumstances in which the addition of another shift will tend to increase employment. The substitution of two 6-hour shifts for a previous 8-hour day, or perhaps for a longer day including some employment at overtime, will tend to reduce capital costs per unit, by allowing management to work capital longer while labor works shorter hours. The decrease in total unit costs attributable to this influence will tend to offset the increase in unit labor costs occasioned by shortening the hours of work with compensatory wage increases, so that on balance profits may be unimpaired. This possibility has led one well-known labor authority to conclude: "It seems plain that if labor must be compensated for the reduction in hours, the only way to destroy unemployment by converting it into leisure is through a plan which permits industry simultaneously to achieve substantial savings in overhead."[54]

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[52] Another factor which should perhaps be taken into account is the effect of hours' reduction in drawing women into the labor market. Reduction in hours may increase unemployment if it makes jobs more attractive to women and hence increases the number of jobseekers.

[53] H. A. Millis and R. E. Montgomery, *Labor's Progress and Some Basic Labor Problems* (New York, McGraw-Hill Book Company, 1938), p. 507.

[54] S. H. Slichter, "Lines of Action, Adaptation and Control," *American Economic Review*, **23**:53 (1933, supplement).

While it may be conceded that the more intensive use of capital is a favorable factor, it should be recognized that if the increase in the number of shifts does increase employment, it will have this effect only after a series of highly complicated long-run influences are set in motion. The spreading of overhead will not affect marginal costs, while the reduction of hours with increases in basic hourly rates will raise marginal costs. Hence as far as immediate price and output reactions are concerned, the change in the number of shifts does not alter the picture. Some plants will be forced out of business, while other plants in which the proportion of labor costs is relatively low and overhead costs relatively high will find their profits increased by the changeover to additional shifts. Ultimately, the number of plants in the industry undergoing the change will diminish with a larger volume of business concentrated in a fewer number of firms each using capital more intensively than was true before the shorter hour program was inaugurated.

The ability to inaugurate an additional shift will vary considerably from industry to industry, and in those firms attempting it, the benefits obtained will vary depending upon the importance of overhead costs. In some plants where equipment is antiquated, working additional shifts may mean increasingly frequent breakdowns without adequate time for repairs. In industries which do not operate continuously, the amount of reëmployment which can be provided by a shortening of hours of work will depend in part upon the availability of unused machinery and equipment. To the extent that less efficient equipment is brought into use, the upward pressure on costs is intensified.[55]

INTERINDUSTRY SHIFTS

A program of shorter hours with undiminished take-home pay would produce important changes in the demand for particular industries. The increased availability of leisure would probably be reflected in an increased demand for sporting goods and other recreational goods by which leisure could be made more enjoyable. Likewise the effect of the increased wage disbursements—assuming that there were some initial reëmployment—would operate to stimulate the consumers goods industries. At the same time, however, the non-durable consumers goods industries would experience the greatest increases of cost relative to the rest of the economy, since it appears that the non-durable consumers goods industries have higher ratios of wages to value added than do the capital goods industries.[56] Thus, in so far as the effect on costs is concerned, the former industries would be hardest hit by the combination of shorter hours and increased wage rates, while the capital goods industries, having a higher ratio of capital costs would be the ones to benefit most from the addition of extra shifts.

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[55] *The Shorter Workweek*, A Report of the Department of Manufacture Committee, (Washington, Chamber of Commerce, 1945), p. 15. For an analysis of the effect of the two-shift system in British industry, see H. M. Vernon, *The Shorter Working Week* (New York, E. P. Dutton and Company, 1934).

[56] C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 31.

This combination of altered cost and demand positions would ultimately produce some readjustment in the disposition of the total labor force as among the various industries in the economy. The net effect upon employment can only be conjectural. If wage disbursements increase initially as a result of the shorter hours of work with compensatory wage rate increases, it appears that a larger proportion of the national income would be spent on non-durable consumers goods than before the hours program was instituted. Two factors will contribute to this result. On the one hand, the total income of wage earners will increase if there is some reëmployment, and the income of working people, particularly during periods of large-scale unemployment is likely to be spent largely upon non-durable consumers goods. But as we have seen, these are the very industries which will feel most the impact of the shorter hour program. Therefore, prices will rise in these industries relative to the general price level, but because of the relatively inelastic demand typical of these industries, the total receipts of the non-durable consumers goods industries will probably increase. This augmented volume of expenditure concentrated in these industries will probably support a larger volume of employment than it would under its previous distribution, since the non-durable consumers goods are, according to some studies, more labor-employing than other industries.[57] At the same time, since the proportion of labor costs to total costs is less in the capital goods industries than in the non-durable consumers goods industries and since the adjustments resulting from the changeover to more shifts with shorter hours per employee may lead to a more efficient allocation of output concentrated in fewer plants, prices of machines should rise less than in proportion to consumers goods. This would stimulate the demand for labor-saving machinery and thus increase the volume of investment and employment.

SHORTAGES OF SKILLED LABOR

Any general uniform reduction in hours per week is likely to increase the number of bottlenecks which develop in production and therefore raise a barrier to full employment. A shortage of skilled workers in a key industry can have repercussions which produce unemployment throughout the economy. If the shorter hour program is applied to skilled workers, management is faced by three alternatives, all of which are likely to react unfavorably upon employment generally. Management can, of course, employ the same skilled workers as before, but now pay them additional overtime because of the shortening of the basic workweek. This would have the same effect as a wage increase and would therefore raise costs and prices. On the other hand, management can attempt to hire other workers and train them to fill these jobs, but these men will on the average be less experienced and make more mistakes so that labor cost per unit will tend to rise through their employment. Lastly, if management is unwilling or unable to find additional skilled help, bottlenecks and shortages will develop which will cause stoppages, depriving even the unskilled of their jobs.

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[57] C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 31.

The extent to which industry is dependent upon the supply of skilled labor was brought home clearly during the war years. It was also recognized in drawing up the various codes under the NRA. Thus a number of industries included exemptions from the shorter hours program for certain classes of skilled labor. The code for the automobile industry provided for longer hours in the spring when the industry runs into shortages of skilled workers needed for full production of new models.[58] Moreover, the shortage of skilled labor is to some extent a regional problem. The problem might present itself in a particularly acute form in small towns having available only a limited pool of labor. Thus a program of shorter hours must be undertaken with caution. In a key industry such as the construction industry where costs are already at a high level and where full production is urgently needed, a drastic shortening of the workweek would have disastrous effects upon the economy at large. On the other hand, in other industries a reasonable shortening of hours, even if it does produce some rise in costs, can probably be accomplished without too difficult a readjustment. An appreciation of the various possible repercussions of a shorter hour program indicates the danger of any general uniform shortening of hours accomplished by legislative decree.

Incidence of Shorter Hour Program

In view of the increasing strength of organized labor in this country, it seems quite possible that within the next 10 years the average workweek in American industry will drop to 35 hours with a 30-hour week prevailing in those areas in which declining demand and rapid mechanization have particularly reduced the demand for labor.[59] Labor has not forgotten the lesson of war production which afforded a spectacular demonstration of the great productive capacity of our economic machine. With over 10 million men under arms and two-fifths of our national output diverted into war production, our economic machine was nevertheless sufficiently productive to be able to provide the civilian population with a greater total amount of commodities and services than was afforded them in such good prewar years as 1937 and 1939.[60] Hence it is understandable why labor leaders view with skepticism the possibility of continuously employing the full labor force at the current workweek.

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[58] C. Roos, *NRA Economic Planning,* Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 34.

[59] If rapid advance is made in the application of the atomic principle to power production, an even larger reduction in hours may be called for. The immeasurable consequences to employment of labor inherent in such a development led Stuart Chase, well-known economist, to warn that "technological unemployment could grow to catastrophic proportions" unless plans were made now to cope with future problems of atomic energy. *New York Times* (December 3, 1945), p. 4.

Undoubtedly the most desirable manner of attaining full employment in the coming decade would be through high volume production so that labor would be fully employed 40 hours a week and the community could benefit from technological progress in the form of a rising level of real income. From the point of view of maximizing national welfare, increasing leisure for organized labor, obtained by reducing hours of work below 40 a week, can hardly be preferred to rising real income for the whole community. But if conditions make it impossible to attain full production and full employment on this basis, and as a consequence unemployment develops, then other means may have to be considered of occupying the labor force. One economist has summed up the dilemma in these words:

> Granted that full employment at a thirty-five hour week is less desirable for the nation than full employment at a forty hour week, it does not follow at all that full employment at thirty-five hours is worse than seven-eighths employment (seven million unemployed) at forty hours.[61]

The crux of the problem is, of course, whether full employment could in fact be attained at the 35-hour level, or whether the rise in costs attributable to the program of shorter hours with less work would not so depress business confidence that investment would be discouraged and hence unemployment would prevail even at the shorter workweek.

Unfortunately examination of past events is not very helpful in ascertaining the precise effect which a shortening of the workweek has on employment, because it is impossible to disassociate the effect of the curtailment in hours from other circumstances which affected the general economic milieu. There have been two periods of sharp downturn in hours of work—the first during World War I when the average full-time workweek fell from 55.1 to 51 hours and the second during the NRA when the establishment of a 40-hour workweek meant a reduction for most workers of 8 to 10 hours a week.[62] The Federal Reserve Adjusted Index of Industrial

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[60] J. A. Krug, *Production, Wartime Achievements and the Reconversion Outlook*, United States War Production Board Document No. 334 (October 1945), p. 1.

[61] B. Graham, "The Hours of Work and Full Employment," *American Economic Review*, **35**:434 (1945).

[62] *Technology in Our Economy*, TNEC Monograph No. 22 (Washington, 1941), pp. 167–168.

Production (based on 1923–25 equals 100), which had risen from 59 in March 1933 to 100 in July 1933, dropped after the inauguration of the NRA shorter hour program to 72 in the following November.[63] However, it hardly seems fair to term this—as have some economists—an experiment which was "dramatic and conclusive,"[64] as indicating the effect of a reduction in hours and an increase in wage rates. The year 1933 was unique in many respects and the effect of a shortening of hours at such a time might be quite different from that of a similar program pursued under more propitious conditions.

Nevertheless, as our earlier theoretical analysis has indicated, economic theory suggests that increasing leisure for the workingman can only be purchased at some cost to the economy in terms of the optimum utilization of resources.[65] Less work means less output; higher costs mean a further deterrent to investment expenditure. Society may consider this a fair exchange but at any rate the program to reduce hours of work should not be undertaken without a full realization of the possible impact of the movement upon employment and production.

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[63] *Federal Reserve Bulletin* (May 1934), p. 286. The effect of spreading of work is seen in the fact that while production was decreasing, employment in manufacturing industries, as measured by the U. S. Bureau of Labor Statistics Index, rose 3 per cent from July 1933 to December 1933. *Federal Reserve Bulletin* (May 1934), p. 271. By September 1934, employment was about four million greater than in June 1933. One investigator attributes about two million of this increase to the NRA and its work-spreading plan. See C. Roos, *NRA Economic Planning*, Cowles Commission Monograph No. 2 (Bloomington, Indiana, The Principia Press, 1937), p. 145.

[64] B. M. Anderson, in Paul T. Homan and Fritz Machlup (eds.), *Financing American Prosperity* (New York, The Twentieth Century Fund, 1945), p. 23.

[65] Of course, reduction in hours of work may itself contribute to a more nearly optimum distribution of resources in so far as it brings about an adjustment between work and leisure more closely approximating labor's own preferences.

Part V

MINIMUM LABOR STANDARDS AND SOCIAL SECURITY

23

Wage, Hour, and Related Legislation

In modern democracies, one of the accepted duties of the state is the protection of workers against unfair conditions and against the risks and hazards of the job. The former entails the establishment of minimum wage, maximum hours, child labor and basic health and safety legislation, which will be discussed in this chapter. The second includes workmen's compensation, the old age, survivors, and health and sickness insurances, which will be considered in the three following chapters.

Minimum Wage and Hour Legislation

Wage fixing by government intervention seems to progress through three stages: the first may be called the stage of protection; the second step, the level of minimum need; the third, the level of minimum comfort. The purpose of the first is to protect the worker from excessive physical and financial "exploitation"[1]; the second attempts to set a general wage level based upon the minimum needs of a worker; the last would provide a worker and his family with every material condition required for its health and physical welfare.[2] Minimum wage legislation of the first stage is confined to certain industries where conditions have been particularly censurable. The second stage rather than being negative in philosophy, attempts to extend a positive program to all workers. The last and highest level, is in essence, an ideal, the goal of many proponents of minimum wage legislation. Admittedly, these divisions are arbitrary; as in most evolutionary processes, the stages merge imperceptibly into one another, but they are nevertheless useful distinctions.

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[1] Financial exploitation in the sense of very low wages, rather than in the sense of payment to labor of less than its marginal value product, as the term is used in Chapter 13.

[2] Francis Bacon once admonished that it is a common fault of human understanding to read into events more order than there is actually in them, simply because the mind likes to find order in everything. Perhaps this criticism is valid here. One might contend that the progress of minimum wage regulation in America has been purely chaotic, and could, no doubt, present a good case in support of this assertion. It is interesting, however, that this theory of evolution in the standards of wage-fixing was originally advanced by Professor Theodor Brauer in connection with Australian wage legislation, yet it seems to fit the American experience as well. See his article, "The Minimum Wage," *International Labour Review,* **11,** 5:683 ff. (May 1925).

THE PROTECTIVE STAGE

Underlying this evolution in the standards adopted by government in setting wages is the evolution in the attitude of the public itself. Public opinion is naturally lethargic. It takes a sudden or drastic revelation to call forth public indignation. Thus, the nation is unconcerned when workers are maimed or killed every day by industrial accidents, yet it is aroused to action when 100 miners are buried in a cave-in. In the same way, public attention was focused on the problem of setting minimum wages by glaring conditions that prevailed in certain "sweated" industries, where wages paid were so low as to endanger seriously the health of the workers, and of women, in particular. The measures of this protective stage in the development of wage regulation are characterized by their negative nature—they are primarily the expression of the reaction of the general public to conditions in particular industries which seem detrimental to the welfare of women workers. That these anti-sweating laws, have, in the main, been designed to protect women, can be attributed to the fact that women's wages have been the ones that were extremely low.[3] Furthermore, since the future of the nation is argued to depend upon the health of its mothers, public opinion has always been more aroused when it has been revealed that the health of women workers was being endangered. Finally, the fact, noted in Chapter 2, that the American Federation of Labor was opposed to minimum wage laws for men because of its traditional fear of state intervention, also encouraged legislators to confine such laws to women. The first domestic wage law was passed by Massachusetts in 1912 as the result of persistent agitation by trade union women and social workers. By 1923, 17 states had enacted minimum wage laws protecting women and children. But the movement was doomed to a temporary setback, for in that year, the Adkins case[4] seemed to make it clear that all mandatory state minimum wage laws were unconstitutional under the Fourteenth Amendment. In the Adkins decision, the Supreme Court objected to the District of Columbia law on the grounds that it required payment of a fixed sum as a living wage whether the services rendered by the worker were worth that sum or not. The Court declared that "a statute requiring an employer to pay in money, to pay at prescribed and regular intervals, *to pay the value of the services rendered*,[5] even to pay with fair relation to the extent of the benefit obtained from the service, would be understandable."[6] Taking this hint, many states attempted to regulate wages where it could be shown that they were less than the "fair and reasonable value of the service rendered, and less than sufficient to meet the cost of living necessary for health."[7] This movement was accentuated by the favorable atmosphere of the New Deal period. By 1936, minimum wage laws were again on the statute books of 17 states; of 9 passed after January 1, 1933, 8 embodied the new principle of a "fair" wage.[8]

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[3] Even at present, women are often paid less than men for performing similar work. See, however, p. 546 for laws proscribing this practice.

[4] *Adkins v. Children's Hospital*, 261 U. S. 525.

[5] Italics inserted by the authors.

[6] Alice S. Cheyney, "The Course of Minimum Wage Legislation in the U. S.," *International Labour Review* (July 1938), p. 29.

In June 1936, a New York law, which had prohibited the payment of substandard wages to women and minors, was held to be unconstitutional in a test case for minimum wage laws of the new type.[9] The Supreme Court sustained the decision of the state court which had declared that the New York law was not materially different from the one which had previously been declared unconstitutional. The point of resemblance emphasized was the inclusion in the New York law of a reference to the cost of living in the determination of a fair wage, a provision which, the Court reasoned, had nothing to do with "the value of the services rendered."

The decision was received by the general public with alarm and indignation. So aroused was public opinion that three months after he had won the decision, the laundry owner whose suit had precipitated the case had lost his business through the withdrawal of patronage by his indignant customers.[10]

In March, 1937, the Supreme Court, in effect, changed its attitude toward minimum wage legislation when it upheld the minimum wage law of the State of Washington.[11] In explaining the necessity for reopening the subject, the Court said in the introduction to its opinion:

> The importance of the question in which many states having similar laws are concerned, the close division by which the decision in the Adkins case was reached and the economic conditions which have supervened, and in the light of which the reasonableness of the exercise of the protective power of the state must be considered, make it not only appropriate, but we think imperative, that in deciding the present case, the subject should receive fresh consideration.[12]

As a result of this decision, state minimum wage legislation received a new impetus. Nevertheless, by 1948, only 26 states, Puerto Rico,

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[7] Alice S. Cheyney, "The Course of Minimum Wage Legislation in the U. S.," *International Labour Review* (July 1938), p. 30.

[8] Alice S. Cheyney, "The Course of Minimum Wage Legislation in the U. S.," *International Labour Review* (July 1938), p. 31.

[9] *Morehead v. Tipaldo*, 298 U. S. 587.

[10] Alice S. Cheyney, "The Course of Minimum Wage Legislation in the U. S.," *International Labour Review* (July 1938), p. 33.

[11] *West Coast Hotel Company v. Parrish*, 300 U. S. 379. Actually the change in attitude was on the part of one judge. Both decisions were decided by a 5 to 4 vote.

[12] Alice S. Cheyney, "The Course of Minimum Wage Legislation in the U. S.," *International Labour Review* (July 1938), p. 35.

Hawaii, Alaska, and the District of Columbia had minimum wage laws applicable to women. Nearly all these laws also regulated hours of work for women and working conditions for children as well. Only Connecticut, Massachusetts, New York, and Rhode Island, and Hawaii and Puerto Rico also regulated minimum standards for men. That field was left almost entirely to the federal government.

THE NRA STAGE

The National Industrial Recovery Act included wage provisions typical of this second stage in the evolution of wage fixing. Passed in 1933, and declared unconstitutional 2 years later, it established codes covering 20 million workers under basic minima that ranged in general from 30 to 40 cents an hour. In industries employing 55 per cent of all codified employees, the hourly minimum was over 40 cents.

FEDERAL REGULATION AFTER NRA

The common denominator of state wage regulation, prior to 1938, was the protection of the physical well-being of women workers. Rather than offering a positive philosophy as to a level which should prevail, it was essentially a negative reaction against excessive exploitation. Federal enactments, on the other hand, have advanced a step beyond this primary stage, and have been based upon the idea that all workers, men and women both, are entitled to a "living wage." This second stage, the level of minimum need, is characterized by a positive philosophy. It is based upon the essential element of physical welfare which is common to the first stage, but it is more expansive in outlook. What is more, another motivating factor has entered the picture—the idea of the *economic*, rather than merely the *social*, necessity for high wages. The conviction of the government that minimum wage legislation will be good for the economy because it will increase total effective demand can be seen from the fact that most federal wage enactments have been designed as a recovery measure. Although the NRA was short-lived, it did result in a significant increase in wage and hour standards. In addition, it provided valuable experience for the administration of later legislation.

Three other federal laws of this period went beyond the merely protective stage. The first was the Davis-Bacon Act of 1931, which, as later amended, requires contractors engaged in construction work for the federal government to pay at least the prevailing minimum rates to laborers and mechanics. The second law, known as the Walsh-Healy Public Contracts Act, passed in 1936, provides the following basic conditions which must be observed on all government-let contracts in excess of $10,000:

(1) Not less than the prevailing minimum wage determined by the Secretary of Labor shall be paid to employees working on such contracts;

(2) No such employee shall work over 8 hours per day or 40 hours per week except as the Secretary of Labor may permit overtime at a rate of not less than time and one-half the basic rate;
(3) No male person under 16 and no female person under 18 shall be employed on a contract;
(4) Convict labor shall not be employed on government contracts; and
(5) Work on government contracts shall be performed under conditions that are safe and sanitary.[13]

Both the Davis-Bacon and Walsh-Healy Acts go beyond the establishment of minimum wage regulations since they require payment of "prevailing" rates. Moreover, the Secretaries of Labor have always interpreted "prevailing" to mean the rate paid on union jobs, even in cases where only a minority of the workers in the area were unionized. As a result, wage setting under these laws has been a strong factor in establishing and maintaining rates desired by organized labor.

The third "minimum wage" law of this character applies to pilots and copilots employed on airlines, holding certificates entitling them to make regularly scheduled flights. This law went into effect in 1934 and is now contained in Section 401 (L) of the Civil Aeronautics Act of 1938. It provides that pilots shall receive not less than a rate based upon a formula composed of base pay of $1000–3000 per year, plus hourly pay, plus mileage pay, with bonuses for night flying and for flying over certain terrain; that copilots shall not receive less than their October 1, 1933 rates, which averaged about $190 monthly; and that no pilots or copilots shall fly more than 85 hours in one month. Since the introduction of faster planes automatically increases mileage pay, a pilot with 8 years' experience, flying a Lockheed Constellation plane, 85 hours per month, one-half day and one-half night, must be paid by law, not less than $10,854 per year! Undoubtedly, this is the most generous "minimum wage" law in the history of the world. And, as planes improve and fly faster, up goes this magnificant minimum. Other airline employees, including flight crew members, have no such glorious protection.[14]

The Fair Labor Standards Act of 1938

The Walsh-Healy and Davis-Bacon Acts provide wage standards above the minima, and the Civil Aeronautics Act gives airline pilots an amazingly high minimum. The average worker, however, if protected at all by a minimum wage law, is treated far less favorably by the basic law, the Fair Labor Standards Act of 1938, as amended, also known as the Wage and Hour Law.

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[13] Harry Weiss, "Minimum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), pp. 199–200.

[14] H. R. Northrup, "Collective Bargaining by Air-Line Pilots," *Quarterly Journal of Economics,* **61**:533–576 (1947).

The Fair Labor Standards Act covers employees who are "engaged in commerce or in the production of goods for commerce." The Act "required that such employees were to receive a minimum wage of not less than 25 cents an hour beginning October 24, 1938; 30 cents an hour beginning October 24, 1939; and 40 cents an hour beginning October 24, 1945. The Act also provided machinery whereby the 40-cent objective could be achieved prior to 1945 through recommendations of industry committees composed of labor, management and the public."[15] Because of wartime wage increases, nearly all workers covered by the Act were receiving 40 cents per hour or more before the statutary requirement took effect.

The Fair Labor Standards Act also set maximum hour requirements. After October 24, 1938, all time worked over 44 hours, within one week, had to be paid at the rate of time and one-half; after October 24, 1939, the straight-time week was reduced to 42 hours, and after October 24, 1940, to 40 hours.

The Act also contains child labor provisions which are discussed below.

Table 23 shows the labor force in relation to coverage and exemptions under the Fair Labor Standards Act. The numerous exemptions make the coverage much less extensive than if the Act applied to all workers engaged "in commerce or the production of goods for commerce." These exemptions apply either to both the wage and overtime provisions, or to either wage or overtime. The exemptions on both counts include workers: (1) in agriculture; (2) in certain agricultural processing operations carried on in the "area of production"; (3) in retail and service establishments which are predominately intrastate; (4) in fishing; (5) seamen; (6) in air and interurban transport; (7) in weekly papers where the subscription is less than 3000, or in telephone switchboard operations in public telephone exchanges with less than 500 stations; (9) in executive, administrative, and professional occupations as defined by the administrator of the Act.[16]

Exemptions from the overtime provisions only of the Act are provided for over-the-road trucking and railway and express company employees, for employees engaged in milk pasteurization and butter making, ginning and compressing of cotton and processing of cottonseed, and in the purification of raw sugar and molasses. "The Act also provides for limited exemptions from overtime provisions of various types of agricultural processing and also permits a limited 14-week exemption for industries determined by the administrator (of the Act) to be seasonal in character. Authority is also granted by the Act to the administrator to provide

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[15] Harry Weiss, "Minimum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), pp. 200–201.

[16] Harry Weiss, "Minimum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), pp. 201–202.

Table 23

THE LABOR FORCE[a] IN THE UNITED STATES IN RELATION TO COVERAGE AND EXEMPTIONS UNDER THE FAIR LABOR STANDARDS ACT (1944)*†

Industry Group	*Total Number of Employees*	*Number Covered by the Fair Labor Standards Act and Subject to Sections 6 & 7*	*Number Not Covered or Exempt*		
			Total	*Number Exempt by Specific Provisions of Act*	*Number Not Exempt and Engaged in Interstate Commerce*
All groups, total	45,200,000	21,485,000	23,715,000	19,945,000	3,770,000
Agriculture, forestry, and fisheries	5,000,000	..	5,000,000	5,000,000	..
Manufacturing	16,000,000	15,000,000	900,000	800,000	100,000
Mining and quarrying	800,000	725,000	75,000	35,000	40,000
Construction	1,000,000	200,000	800,000	50,000	750,000
Wholesale trade	1,500,000	1,000,000	500,000	400,000	100,000
Retail trade	5,000,000	100,000	4,900,000	4,900,000	..
Banking, finance, and insurance	900,000	600,000	300,000	285,000	15,000
Transportation and allied services	2,900,000	2,200,000	700,000	600,000	100,000
Communication and other public utilities	870,000	800,000	70,000	70,000	..
Services, total	5,230,000	760,000	4,470,000	1,805,000	2,665,000
Agricultural and business services	450,000	150,000	300,000	100,000	200,000
Automotive repair and other repair services	130,000	50,000	80,000	80,000	..
Personal services	2,400,000	50,000	2,350,000	1,000,000	1,350,000
Professional and related services	1,200,000	200,000	1,000,000	100,000	900,000
Non-profit membership organizations	400,000	250,000	150,000	100,000	50,000
Hotels, rooming houses, and other lodging houses	400,000	..	400,000	400,000	..
Amusement, motion pictures, and other recreational services	250,000	60,000	190,000	25,000	165,000
Government (federal, state, and local)	6,000,000	..	6,000,000	6,000,000[b]	..

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* Reprinted from the *Quarterly Journal of Economics*, **58**:463, 1944, by permission of the publisher and Mr. Harry Weiss, the author.

† Source: Preliminary estimates of the Statistics Section, Economic Branch, Wage and Hour Division. Figures are based on Census, Bureau of Labor Statistics, Social Security Board and trade association reports.

[a] The labor force is defined to include only employees. Total employment thus excludes approximately 6,000,000 farm owners and tenants; about 1,000,000 unpaid farm family laborers; and approximately 2,500,000 proprietors of unincorporated businesses. Also excluded are members of the armed forces.

[b] Strictly speaking, the exemption of governmental employees is quite different from the other exemptions, since they are excluded entirely through the definition of "employer." The effect, so far as the application of the wage and hour provisions is concerned, is the same.

exemption from minimum wage provisions for learners, apprentices, handicapped workers and messengers."[17]

More than one-half of the labor force is thus not covered by the basic federal minimum wage laws. In some areas, those not covered are included under special legislation. The extraordinary case of airline pilots has already been noted; and seamen, railway, trucking, non-pilot airline workers and others have been able by now to achieve protection through collective bargaining. In addition, maximum hours for railway operating employees, seamen, truckers, and government employees have been written in other legislation, some of which antedates the Fair Labor Standards Act by many years.[18] And the Sugar Act of 1937 "extended minimum wage protection to a small segment of the field of agriculture by providing that sugar producers cannot receive benefits under the [Sugar] Act unless workers are paid rates not less than those determined by the Secretary of Agriculture to be fair and reasonable."[19]

On the other hand, the great body of non-covered employees are either in agriculture or in intrastate commerce. Despite some agitation to include employees of large and/or corporate farms within the Act, opposition of farm groups to any such coverage has prevailed so that sugar workers remain the only agricultural workers with minimum wage protection.

The workers in intrastate commerce, who are beyond the constitutional scope of federal regulation, also remain largely uncovered by other minimum wage laws. We already noted that only 4 states and 2 territories[20] have general minimum wage laws, and only 26 states, 3 territories and the District of Columbia regulate minimum wages for women. Thus in a large number of states, intrastate industry is exempt from any requirement to pay a minimum wage. And this failure to regulate is more serious, first, in view of the large number of industries which are intrastate in character and which traditionally pay the lowest wages (for example, the various services trades), and second because both intrastate industries and agriculture include only a small percentage of unionized workers, and therefore have not to any extent won minimum standards by collective bargaining.

ADMINISTRATIVE PROBLEMS

The Fair Labor Standards Act is administered by the Wage and Hour Division of the Department of Labor. An administrator heads the Division, which not only aids in interpreting and applying the law, but is also charged with enforcement. Wage and Hour Division inspectors are employed to check up on alleged violations and to seek restitution where violation does occur. In cases where violations are not voluntarily stopped, the administrator may bring enforcement proceedings in court. In addition, individuals may sue for double damages. Since 1943, the Wage and Hour Division has also administered the Walsh-Healy Act.

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[17] Harry Weiss, "Minimum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), p. 203.

[18] For example, acts regulating hours of railway employees of 1906–1907 and 1916.

[19] Harry Weiss, "Minimum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), p. 203.

[20] Connecticut, Massachusetts, New York, Rhode Island, Hawaii, and Puerto Rico.

Because back pay and damages frequently resulted in substantial amounts, and because violations of the Fair Labor Standards Act frequently turned upon an inadvertent misinterpretation of the law, six states passed legislation limiting back pay liability of employers.[21] The Supreme Court invalidated this legislation on the grounds that a state could not reduce the benefits of federal laws. Bills were then introduced into Congress, but failed of passage until the portal-to-portal controversy of 1946–47.

THE PORTAL-TO-PORTAL CONTROVERSY

When the Fair Labor Standards Act was being considered, there was no indication that Congress meant by "hours worked" anything else than was regular practice in a particular industry. In many industries, however, it has long been the custom to require the employees to be on the spot and ready for work before time was computed for their working day. This meant that many employees performed such preliminary activities "as putting on aprons, and overalls, removing shirts, taping or greasing arms . . . preparing the equipment for productive work, turning on switches for lights and machinery, opening windows and assembling and sharpening tools,"[22] or even just walking to the place of work within company property.

Seizing upon the legal technicalities involved in the concept of definition of time spent on the job, a group of miners in an Alabama metal mine demanded compensation under the Act for time spent on "portal-to-portal" travel. In other words, they wanted compensation for alleged overtime worked beyond the computed 40-hour week which had been spent in traveling from the company gates to the particular spot underground in the mine where they worked and vice versa when they quit at the end of the working day. The Supreme Court found for them, despite the absence of any Congressional intent to write a new concept of workday in the Act.[23]

At the time the metal mines case was being considered, President John L. Lewis and the United Mine Workers opposed payment for portal-to-portal on the grounds that it would upset the wage structure in the bituminous coal industry. During World War II, however, Lewis saw in the portal-to-portal issue a means of circumventing wage stabilization. The United Mine Workers, therefore brought a case of its own and again the Supreme Court decided in its favor.[24] The transparent character of the portal-to-portal claim was then quickly revealed as the United Mine Workers and the bituminous coal industry settled the entire matter on the basis of an average payment in lieu of portal-to-portal pay. Hence, the miner who traveled 10 minutes to his underground place of work and the miner who took an hour to reach his place of work now receive the same portal-to-portal pay.

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[21] Iowa and Oregon (six months); Alabama and Florida (one year); Georgia (two years); and Ohio (three years).

[22] From the language in *Anderson v. Mount Clemens Pottery Co.*, 66 Sup. Ct. 1187 (1946).

[23] *Tennessee Coal, Iron and R. Co. v. Muscoda Local 123*, 321 U. S. 590 (1944).

The storm which was caused by the mining case was very minor compared to that which broke when the Supreme Court decided that industrial workers were entitled to pay for traveling and make-ready time.[25] Immediately, CIO unions commenced filing an amazing number of claims under that decision, until by the end of January, 1947, 1515 cases amounting to $5,785,204,606 were filed with an indefinite amount claimed in 398 additional suits.[26] AFL unions generally declined to claim suits on the advice from the Federation that such suits would upset and violate the spirit of collective agreements.

Congress immediately took action by overwhelmingly passing a law known as the Portal-to-Portal Act of 1947, which had four main points: (1) It provided that no activities performed before May 14, 1940, the date of the passage of the Act, were to be compensable under either the Fair Labor Standards Act, the Walsh-Healy Act, or the Davis-Bacon Act, unless made so by contract, plant custom, or practice. After that date, travel and make-ready time was made compensable only if made so by contract or plant custom or practice. (2) It permitted compromise and waiver of liquidated damages for past claims under the Fair Labor Standards Act, provided that the amount received was not less than the legal minimum wage of 40 cents or the legal minimum for overtime, which would be 60 cents. (3) It provided that under the three acts, the employer might escape liability "if he pleads and proves that the act, or omission complained of, was in good faith in conformity with and in reliance on" any administrative decision, practice, or enforcement policy. (4) It provided for a uniform national statute of limitations under the three acts of 120 days for claims arising before May 14, 1947, and of two years or the state statute of limitations whichever was shorter for suits arising thereafter. The effect of this was to reinstate the four state laws which provided for a shorter than a two-year limitation.[27]

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[24] *Jewell Ridge Coal Corp. v. Local 6167, UMW*, 325 U. S. 161 (1945).

[25] This was in *Anderson v. Mount Clemens Pottery Co.*, 66 Sup. Ct. 1187 (1946).

[26] These data and the ensuing discussion are based on Harry Weiss and Robert G. Gronewald, "Wage and Hour Laws," in C. E. Warne *et al.* (eds.), *Labor in Postwar America* (New York, Remsen Press, 1949), chap. 9, pp. 239–254.

The net effect of the portal-to-portal controversy was thus to weaken employees' rights of restitution under the law, regardless of whether they arose on a portal-to-portal issue. It is difficult to understand how Congress would be expected to do anything else in view of the fact that portal-to-portal claims were often in excess of the net worth of many businesses. Hardly, however, had this controversy died down, when a new wrinkle arose—the issue of "overtime-on-overtime."

THE "OVERTIME-ON-OVERTIME" ISSUE

In June 1948, the Supreme Court decided another case which had implications similar to the portal-to-portal cases.[28] This suit was brought by a group of New York City longshoremen on an interpretation of the Fair Labor Standards Act's definition of overtime. Longshoremen's union contracts with stevedoring companies traditionally require payment at one and a half times the straight-time rate for all hours worked in excess of 8 per day, before 8 A.M., after 5 P.M., and on Saturday afternoons, Sundays, and holidays. In the above case, the Supreme Court held that payment of time and a half in accordance with such contracts did not necessarily meet the requirements of the Fair Labor Standards Act, which requires payment at not less than one and a half times the "regular rate" for all hours worked by covered employees in excess of 40 per week. The act does not define "regular rate." The court ruled that "any additional sum received by an employee for work because of previous work for a specified number of hours" was a true overtime premium not to be included in the regular rate but that premium pay for work performed before or after certain hours, on Saturday afternoons, Sundays, and holidays was extra pay for undesirable work shifts. The latter was not overtime pay, and had to be included in the regular rate. According to this ruling, a longshoreman who had worked 48 hours a week, all after 5 P.M. and before 8 A.M., to take the extreme example, should have been paid for the 8 extra hours at the rate of one and a half times one and a half times the contract straight-time rate, *viz.*, at the rate of $2.25 per hour if the straight-time rate had been $1.

Fortunately, overtime-on-overtime did not become as serious a controversy as portal-to-portal because unions made little or no attempt to profit by it. The original case was brought over the opposition of the International Longshoremen's Association and the AFL, both of whom opposed it in court, and unions of the CIO likewise did not press the issue. Moreover, since the Portal-to-Portal Act had already been passed, liability was less extensive. Then Congress amended the Fair Labor Standards Act in 1949, and removed the basis for claims of overtime-on-overtime.

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[27] Iowa, Oregon, Alabama, and Florida.

[28] *Bay Ridge Operating Co. v. James Aaron, et al.*, 334 U.S. 446 (1948). This discussion has been aided by an unpublished memorandum of Industrial Relations Counselors, Inc.

Both the portal-to-portal and the overtime-on-overtime issues resulted basically from artificial rulings of the Supreme Court. Although these rulings were on the "liberal" side, they are of the same character as earlier and since overturned conservative court decisions which denied the right of Congress or the states to legislate on questions of minimum wages. Such decisions have turned on legal technicalities which disregard the intent of Congress and the practical problems involved.

The 1949 Amendments to the Fair Labor Standards Act

In late 1949, Congress amended the Fair Labor Standards Act to raise the minimum wage from 40 cents per hour to 75 cents per hour. Included in these amendments, however, was an expansion of the exemptions under the Act which may remove more than one million workers from its coverage. Thus a large number of the workers who would have benefited from the new law now find themselves with even less protection than the 40 cent minimum formerly gave to them. (See page facing p. 546 for further discussion.)

Maximum Hours Legislation

Although only 26 states have established minimum wage laws for women, 43 states, Puerto Rico, and the District of Columbia have enacted legislation limiting the hours of women in industry from 8 to 10 per day and 44 to 60 per week, with a prevailing group at 48 hours per week. In addition, 20 states and the District of Columbia require a day of rest in each seven for women workers; 16 states, District of Columbia, and Puerto Rico prohibit, and 2 others regulate, night work for women; and 26 states, District of Columbia, and Puerto Rico regulate meal periods for women workers.[29]

A fundamental difference between state laws regulating the hours of work for women and the Fair Labor Standards Act is that the state laws set an absolute limit on hours worked rather than provide for time and a half for overtime. The reason is that the state laws are motivated by concern over the health, safety, and morals of women, whereas the Fair Labor Standards Act was motivated by concepts of sharing work, enjoying leisure, and promoting the economic well-being of workers.

Only 2 states, Mississippi and Oregon, have adopted maximum hour laws for all workers in manufacturing establishments. Both acts provide for the 10-hour day with Oregon permitting 3 hours overtime daily at time and one half. The Mississippi law provides for a 55-hour week maximum. Eleven additional states[30] limit the hours of men in occupations where excessive work is extremely hazardous to the employee, or in such fields as transportation where excessive work endangers the consumer.[31]

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[29] Harry Weiss, "Maximum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), pp. 203–204.

Child Labor Legislation

The Fair Labor Standards Act is also concerned with child labor. The minimum age for general employment in establishments covered by the Act is 16 years, and in occupations and industries found to be particularly hazardous by the Secretary of Labor, the minimum age is 18 years. Employment of children 14 or 15 years of age is permitted only in occupations other than manufacturing, processing, or mining, and only outside of school hours under restrictions established by the Wage and Hour Division which has administered the child labor sections of the Fair Labor Standards Act since July 1947. Prior to that date, these provisions were administered by the Children's Bureau. In addition to federal regulations, a basic 16-year minimum age for employment had been adopted by 20 states by June 1948. Moreover, most other states have enacted some legislation regulating child labor.

Child labor regulation suffered sharply during the war. In April 1945, almost 3,500,000 boys and girls 14 through 17 years of age were engaged in full- or part-time work, or approximately three times the prewar figure. By April 1948, the figure had dropped to 2,040,000 which was still double the April 1940 figure. A large percentage of these were engaged in agriculture, where only the states of California, Connecticut, New Jersey, and New York, and the territory of Hawaii had adequate regulation. Agricultural employment, it also will be recalled, is excluded from the coverage of the Fair Labor Standards Act.[32]

Although child labor continues to be a problem, it no longer ranks as a major one. The Fair Labor Standards Act dealt child labor a death blow, but it was already a declining phenomenon. Since 1900, the percentage of children, 16 years and under, in the labor force has steadily declined. In contrast to the present situation, 26 per cent of all boys 10 to 15 years old were working in 1900.

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[30] Arizona, Missouri, Montana, Colorado, Nevada, New Jersey, New York, Georgia, Maryland, South Carolina, and Oregon.

[31] Harry Weiss, "Maximum Labor Standards," in *Yearbook of American Labor: War Labor Policies* (New York, Philosophical Library, 1945), p. 204.

[32] Elizabeth S. Johnson, "Child Labor and Youth Employment," in M. Hodges (ed.), *Social Work Yearbook* (New York, Russell Sage Foundation, 1949), vol. 10, pp. 92–98.

Other Protective Labor Legislation

The states have enacted a great variety of legislation aimed at health and safety of the labor force.

> Illustrations of laws of this type are requirements for regular reports concerning accidents and occupational diseases, regulation of use of dangerous materials and equipment, exclusion of certain types of workers from particular employment, compensation for injuries or diseases received in the course of employment, and a variety of laws or codes governing sanitary facilities, fire protection, and other safety equipment. In some instances physical examinations are required for those undertaking particularly hazardous work, and systems of licenses for occupations involving public safety may be required. The regulation of industrial homework and prison labor is also a health measure, although an equally compelling reason for adoption of such laws is the market effect of competition created by workers employed under low standards. The codes and statutes of all states contain some health and safety provisions. For a number of years the use of white phosphorus in the match industry has been prohibited. The use of radium in watch dial and instrument making is closely controlled. Women are excluded from mining in all states. Under the Fair Labor Standards Act children between sixteen and eighteen years of age are excluded from employment in occupations held to be hazardous. However, despite the volume and variety of such regulation, the toll of modern industry on life and limb continues to be great.[33]

In addition, the federal government has enacted several laws to ensure safe operation of railroads, trucks, airplanes, and ships.

Finally, in nine states,[34] discrimination in rates of pay, as between the sexes, is prohibited. Such legislation is sponsored not only by proponents of equal rights for women, but also by unions and other groups who are fearful that women will be employed at less wages than men, and will thus cause unemployment of heads of families or depress the general wage level.

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[33] Lois MacDonald, "Labor Standards," in M. Hodges, *Social Work Yearbook* (New York, Russell Sage Foundation, 1949), vol. 10, pp. 287–288.

[34] Illinois, Massachusetts, Michigan, Montana, New Hampshire, New York, Pennsylvania, Rhode Island, and Washington.

Summary of 1949 Amendments to Fair Labor Standards Act

The 1949 amendments to the Fair Labor Standards Act were described succinctly by a business journal as "more for fewer."[35] Congress raised the statutory minimum wage from 40 cents to 75 cents per hour, effective late in January 1950, but at the same time reduced the number of workers which are covered by the law. In addition, however, the 1949 amendments extend the prohibition on employment of child labor. The main changes in the law are summarized below:

1. The statutory minimum is raised from 40 cents to 75 cents per hour. Approximately 1,500,000 workers are directly affected by this increase. More than 800,000 of these workers reside in the South or Southwest. This estimate, of course, does not include those workers who will receive increases as an indirect result of the amendments. For, if the unskilled workers receive increases as required by law, other workers will be moved up so as to maintain differentials between the unskilled and semiskilled.

2. Anywhere from 350,000 to 1,000,000 workers who were formerly covered by the Fair Labor Standards Act have now been removed from its protection. The largest number of these exempted for the first time by the 1949 amendments result from a new definition of the commerce clause in the act. Whereas, formerly, the law applied to those "necessary to production," it now applies only to those "closely related and directly essential to the production of goods for commerce." According to the report of the House Committee, the framers of the amendment had in mind eliminating from the Act's coverage employees of businesses which are primarily intrastate and local in character, but which have enough relation to interstate commerce to be included under the old definition. Thus employees of restaurants in factories, local stores whose customers produce goods for commerce, and employees of local fertilizer companies which sell products to local farmers are cited as examples of groups that have now been uncovered. The exact number of employees who have been uncovered by the change in the commerce clause must, however, await judicial determination, and that may take several years.

3. In addition to the change in the commerce clause, the estimates of newly uncovered employees include those who are removed from the scope of the Act by specific amendments. They include the following: Employees of irrigation projects used exclusively for supply and storing of water for agricultural purposes; employees of logging companies where the total employment of the concern does not exceed 12; employees of laundries, half of whose annual dollar volume is derived from the sale of service within the state in which the laundry is located and 75 per cent of whose annual dollar volume is derived from sales of services to custom-

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[35] *Business Week*, October 22, 1949, p. 98.

ers not engaged in a mining, manufacturing, transportation, or communications business (in other words, services for barber or beauty shops, doctors' or dentists' offices, schools, hospitals, restaurants, or hotels, as well as for housewives, will now come within this exemption). Newsboys are exempt from both the minimum wage, overtime, and child labor provisions in the delivery of newspapers to the customer. The small newspaper exemption which was formerly applied to weekly or semiweekly newspapers with a circulation of less than 3000 within a single county has been broadened by extending it to dailies, increasing the circulation limit to 4000, and permitting the circulation to be within contiguous counties even if those counties cross state lines. The exemption for retail stores has been spelled out in detail in such a manner that it may expand the number of those not covered. Taxicab companies have been exempted. The exemption for telephone companies is broadened by increasing from 500 to 750 the number of stations an exempt exchange may serve, and employees of contract telegraph agencies may now be excluded if they meet certain conditions.

4. The administrator is now specifically authorized to issue regulations restricting industrial homework. Such action had already been taken administratively for seven industries.

5. Congress spelled out what it meant by regular rate of pay so that the likelihood of another "overtime on overtime" decision will not occur. In addition, specific statutory backing is given to contracts which provide a guaranteed fixed weekly salary for employees whose hours fluctuate from week to week.

6. The coverage of the Act has been extended in a few instances. Whereas employees of airlines were formerly entirely excluded from the Act, they are now included as to the minimum wage, but excluded as to the hours requirements. Certain cannery workers who formerly were excluded are brought under both the wage and hours provisions of the Act.

7. The child labor provisions of the Act were formerly applicable only in establishments producing goods in commerce. These restrictions have been broadened so that no minor under the age of 16, or under the age of 18 in an occupation found by the administrator to be hazardous, may be employed in commerce or in the production of goods for commerce, nor may parents, as heretofore, employ their own child under 16 in hazardous work. However, exemptions relating to motion picture and theatrical employees are extended to include radio and television, and a new exemption as already noted is provided for newsboys.

8. The administrator's power to sue for back wages for employees has been defined more specifically.

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Social Security: The Old Age and Survivors Program

Because of the inability of most persons to provide adequately against the risks involved in the interruption of income resulting from old age, loss of breadwinner, unemployment, accident, or other unforseeable circumstances, a widespread demand has developed for organized protection against these hazards.[1] After a preliminary statement of the nature of social security, this chapter deals with social insurance and assistance measures which are concerned with old age, survivors, and dependent children. Chapter 25 summarizes the unemployment insurance programs, and Chapter 26 summarizes the accident and sickness insurances.

The Nature of Social Security in America

Social security measures in America are not designed to secure the individual absolutely against disaster, but rather to provide a minimum standard of living. In the three chapters mentioned above, we shall be concerned primarily with public measures providing minimum income to members of the population. In view of the fact that measures designed to provide essential social services (e.g., medical care) are closely entwined in many respects with income security measures, the former will also be considered in part.

Despite the relatively high level of income in America as compared with that of other countries, the average American family cannot save enough funds to provide for emergencies. The data in Table 10 (Chapter 3) reveal that the average income of family units before taxes in the high income year of 1946 was only $2600. Disposable income, that is income left after taxes, is, of course, considerably less. In view of the fact that, in 1946, the United States Bureau of Labor Statistics estimated that the average worker in the large cities needed an income in excess of $2700 to support a family of four "at a level of adequate living—to satisfy prevailing standards of what is necessary for health, efficiency, the nurture of children and for participation in community activities,"[2] it can readily be seen that not only workers in large cities, but others whose living costs are less would find it extremely difficult to provide for contingencies of old age, unemployment, and illness or injury.

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[1] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949). Professor Burns graciously lent her book, the most thorough study of this subject, to the writers while it was still in page proof. Our debt to Professor Burns is very great. Quotations are by permission of the publisher.

[2] L. S. Kellog and D. Brady, "The City Worker's Family Budget," *Monthly Labor Review*, **66**:133–170 (1948).

Social Insurance v. Public Assistance

The essential difference between social insurance and general public assistance or relief measures is first, that under social insurance, "the law specifies with precision the conditions governing eligibility, and the nature and amount of the benefit. Second, the specific conditions do not include a requirement to undergo a test of means or need."[3] Benefits under social insurance are, therefore, predictable, whereas those under public assistance are not, since the discretion of the program administrator in determining whether or not to grant assistance, and if so, how much, must be very great. In other words, citizens who meet specified eligibility requirements under the law have a right to social insurance; but citizens must establish a need or prove that they are worthy in order to secure public assistance.

In actual practice, the borderline between insurance and assistance is not always precise. Thus under the various unemployment compensation systems, receipt of insurance is sometimes dependent upon lack of opportunities for "suitable work." The meaning of this term permits administrative discretion which can be used to deny benefits to those who may be considered to have a right to benefits.

It should be noted that social insurance and other forms of social security measures are not necessarily antagonistic, but rather can and should be complementary. "Social insurance deals with *presumptive* rather than with *demonstrated* need, and is a social institution dominated by a concept of *average* rather than *individual* need. This characteristic of social insurance limits the extent to which this form of social security can deal with the total problem of family economic insecurity. A program dealing with average conditions and needs will always have to be supplemented by a system of public assistance to provide for emergencies and special needs."[4]

Moreover, the American social security system is far from being wholly an insurance system. The old age program, for example, entails assistance as well as insurance. In addition, two other types of benefits have been utilized: status benefits to veterans, which World War II has made extremely important; and work relief, such as was used by the

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[3] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 31.

[4] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 36.

Works Progress Administration (WPA) during the thirties, but which has not been a factor since that time.

Table 24 summarizes the American Social Security System as of 1940, 1946, and 1947. Four types of social security are utilized. "*Social insurance* is used to protect some groups in the population against the risks of old age, death of a breadwinner, short-period unemployment, loss of earnings due to occupational accidents and diseases, and to a very limited extent, against interruption of earnings due to sickness or disability, however caused."[5] The public assistance programs are of two kinds: *special public assistance*, which attempts to meet the needs of specific groups, that is, aged persons not covered by Old Age and Survivors Insurance (OASI), dependent children, the blind, in some states veterans in need, and in one state persons who need constant care as a result of permanent, total disability; and *general public assistance*, which is a last resort measure given to those who are not eligible for other programs and are in need. The fourth social security type in use besides social insurance, special and general public assistance, is the *veterans' security program*, designed "to provide on a non-needs basis for soldiers, veterans, and their families in the event of death, disablement, or incapacity attributable to military service, or unemployment following discharge."[6]

The most surprising fact revealed by the data in Table 24 is the relative unimportance of the social insurances. Fewer persons were affected by the insurances in 1947 than by veterans programs or by the combined totals of the special and general assistances. There are many reasons for this. One is that social insurance was begun in a time of depression, which in turn was followed by a period of relatively full employment. Persons who were unemployed when the unemployment insurance program began were not eligible for insurance until they experienced a period of employment; and then they were likely to stay employed as the labor market grew tighter. Likewise, the OASI program required a certain number of quarters of earnings before eligibility. Until then, people had to depend on assistance. Now that that period is largely over, the relative importance of OASI will increase. The aging of the population has, however, added to the problem of old age, and increased the assistance problem. Finally World War II saw the development of a large veterans' program, parts of which will taper off during the postwar years, but parts of which may be expanded under pressure of veterans' organizations.

The material in Table 24 indicates also the variety of programs which are included in the American social security system. Thus an aged person

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[5] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 47.

[6] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 47.

Table 24

BENEFICIARIES AND PAYMENTS UNDER INCOME SECURITY PROGRAMS, CLASSIFIED BY TYPE OF PROGRAM: SELECTED DATES*†

Type of Program	*Beneficiaries (in thousands)*			*Payments (in thousands of dollars)*		
	1940	*1946*	*1947*	*1940*	*1946*	*1947*
Social insurance (total)	1112.0	2658.4	2990.2	855,366	1,998,988	1,863,863
Old age and survivors	222.5	1642.3	1978.3	40,594	387,691	482,456
Railroad retirement	149.2	189.5	290.2	118,111	160,144	202,450
State unemployment insurance	666.6	749.9	621.4	518,700	1,095,475	776,164
Railroad unemployment insurance	73.7	70.3	77.8	15,961	39,917	50,769
Workmen's compensation	[a]	[a]	[a]	162,000	311,000	330,000
State disability insurance[b]	..	6.4	22.5	..	4,761	22,024
Veterans' programs (total)	941.1	4307.1	3809.4	427,507	3,353,833	3,042,356
Pensions and compensation	941.1	3163.8	3271.9	427,507	1,610,115	2,071,814
Unemployment allowances	..	987.9	464.6	..	1,491,294	772,368
Self-employment allowances	..	155.4	72.9	..	252,424	198,174
Public assistance (total)	4269.0	3472.7	3829.0	1,034,984	1,182,586	1,480,774
Old age assistance	2066.0	2195.8	2332.0	474,952	822,061	986,470
Aid to dependent children	891.0	885.2	1059.9	133,243	208,857	294,038
Aid to blind	73.0	76.7	81.1	21,826	30,748	36,198
General assistance	1239.0	315.0	356.0	404,963	120,920	164,068
Work relief (total)	2846.0	..	..	1,577,078	..	..
Civilian Conservation Corps	246.0	..	..	215,846	..	..
National Youth Administration	774.0	..	..	92,046	..	..
Works Projects Administration	1826.0	..	..	1,269,186	..	..
Grand total	9168.1	10,438.2	10,628.6	3,894,935	6,535,407	6,386,993

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* Source: Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 48. By permission of the publisher.

† Data for Social insurance and veterans' programs supplied by Social Security Administration. Public assistance data from *Social Security Year Book 1946*, p. 46, and from Social Security Administration Bureau of Public Assistance. Work relief data from *Social Security Year Book 1940*, p. 272. Recipients given as of December each year. Payments (or earnings in case of relief workers) are for calendar year.

[a] Not available.

[b] Excludes payments under voluntary plans in California.

"may be eligible for old-age insurance under the Social Security Act either in his own right or as the aged dependent or survivor of a beneficiary; he may be entitled to an annuity under the Railroad Retirement Act, again either in his own right or as a survivor, or he may apply for Old Age Assistance (OAA), though here his prospects of securing aid will vary somewhat from state to state. In addition, veterans drawing disability payments continue, of course, to receive these when they are old, and the means-test pension for non-service connected disability is increased in amount when the recipient reaches age 65, or has received pensions for ten continuous years."[7]

Benefits payable to those who have lost a breadwinner are equally varied, with the OASI, Railroad Retirement, assistance and veterans programs all having a role. Insecurity because of unemployment is less involved (and less adequately provided for), but covered by three programs: state unemployment compensation, a railroad plan, and status benefits for veterans. Loss of earning power because of accidents on the job is handled largely by state workmen's compensation programs which vary greatly in coverage and protection. In addition, five states and the railroad programs have benefits for loss of earning power due to temporary sickness disability however contracted, and the railroad program includes permanent disability insurance as well. Aid for a specific disability, blindness, is available in all jurisdictions except Alaska, and aid for permanent disability is given in one state. Dependent children have special provisions made for them if the breadwinner cannot support them because of mental or physical incapacitation. The great body of persons whose personal resources are exhausted have, however, only general public assistance available in case of inability to work because of illness.[8]

Another feature of the American social security program is the variety of governments involved. Old Age and Survivors insurance is wholly a federal program; Old Age Assistance and other special assistances involve both the federal and state governments as does unemployment compensation, but the unemployment program is almost completely run by the states. Workmen's compensation is wholly a program of the states, except for small segments of employees covered by federal laws. General assistance involves local governments, but the states are parties in these programs to varying degrees. Finally, even when the federal government alone is involved, there is no unity of administration. Thus, by virtue of their political power, the railroad unions have secured separate and superior social security arrangements for themselves, and civil service employees also have a special retirement program exclusive of the general system.

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[7] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 54.

[8] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 55–60.

Altogether, it is difficult to imagine a more complex system than our American social security program. This complexity makes it impossible to do more than highlight the features of its most important aspects, and particularly requires that those who are interested in the special programs of veterans, railroad employees, and in general public assistance, should consult a more specialized study of social security.[9]

The Problems of Old Age and Loss of Breadwinner

Old Age

Rightly or not, employers generally prefer younger workers to older ones. In the absence of union seniority rules, and a shortage of labor such as occurred during World War II, forced retirement might conceivably take place as early as 50 years in some plants. Despite variations among workers, it is true that efficiency generally commences to decline in advancing years and that the pace of modern industry is too much for most men of 65 years and older. "At the end of 1946, for example, only 3.6 million of the 10.5 million people over 65 were working or [were] the wives of workers, and during the depression years the percentage was even smaller."[10]

The fact that earning power declines in later years is becoming an ever more serious social problem because of the aging of our population. This is the result both of medical advances which have increased life expectancy and of the declining rate of population increase. "The numbers of the aged are growing not only absolutely but also in relation to the population as a whole. Whereas in 1940, there were roughly 9 million persons 65 years of age and over (a little under 7 per cent of the total population) by [the year] 2000 it is estimated that there will be between 20 and 22 million persons (between 13 and 14 per cent) in this age group."[11]

Loss of a Breadwinner

Closely allied with the problem of old age is that of the family which loses its principal breadwinner. Advances in medical science which have lengthened life expectancy have been made mainly by successful attack on causes of death before the age of 40. Maladies such as cancer, heart disease, and arthritis, which strike persons at the peak of their earning power, have increased the number of their victims since 1900. In addition, accident hazards resulting from such conveniences as the automobile have greatly increased also. Few heads of families are able to carry sufficient private life insurance to do more than tide over their survivors for a relatively short period. The problem of taking care of survivors is essentially a public one.

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[9] The best source for further information is Professor Eveline M. Burns's book, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), which has been extensively used for our summary.

[10] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 9.

[11] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 9.

The extent of the problem created by the loss of the breadwinner is illustrated by these data. In 1946, there were 2.7 million fatherless children under 18 years of age, approximately 3.7 million widows who had not reached 65 years, and 3 million widows 65 years and older. "Rather less than half of the younger widows were employed. But . . . widows under 45 who were heads of families with children under eighteen living with them (2 out of every 3 in 1943) are handicapped by family responsibilities in their search for work. Only 58 per cent of this group were at work in 1943 compared with the 81 per cent of widow family heads who had no children under 18."[12] In view of the limited employment opportunities for older workers, it is obvious that widows over 65 have little chance of securing satisfactory employment when they are able to work. Approximately 6 per cent of this group was working in 1940.[13]

A Summary of the Old Age and Survivors Insurance Program as of January 1, 1949

TYPES OF BENEFITS

The Social Security Act as of January 1, 1949, provided for the payment of seven types of old age and survivors insurance benefits, as follows:

1. The primary insurance benefit, payable to the fully insured retired worker at age 65. The amounts of all other benefits are related to this primary insurance benefit.

2. The wife's benefit, equal to one-half of the primary insurance benefit and payable at age 65 to the wife of a retired beneficiary.

3. The widow's benefit, equal to three-quarters of the primary insurance benefit and payable at age 65 to the widow of a fully insured worker.

4. The child's benefit, equal to one-half of the primary insurance benefit and payable to the unmarried child under 18 of a retired worker or a deceased insured worker.

5. The widow's current insurance benefit, amounting to three-quarters

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[12] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 15.

[13] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 15.

of the primary insurance benefit and payable to the widow under 65 of a deceased insured worker if she has a child of the worker in her care who is entitled to benefits.

6. The parent's benefit, amounting to one-half of the primary insurance benefit, and payable to dependent parents of a deceased fully insured worker at age 65 if no other relatives eligible for monthly benefits survive the deceased wage earner.

7. The lump-sum death payment, amounting to 6 times the primary insurance benefit and payable upon the death of an insured worker if no monthly benefits are immediately payable.

Benefit Amounts

The amount of the primary insurance benefit is determined as a percentage of the worker's "average monthly wage." The present formula for the primary benefit is 40 per cent of the first $50 of the average monthly wage, plus 10 per cent of the remainder up to $250, increased by one per cent of the sum of the foregoing for each year in which the individual was paid wages of $200 or more.

The average monthly wage is computed by dividing the total wages—up to $3000 a year—which the worker has received in covered employment by the number of months elapsing after the start of the program, or after the worker attains age 21 if that is later, and prior to the date of his death or attainment of age 65. Thus periods of time spent outside of covered employment operate to lower the average monthly wage and consequently the benefits payable to the worker or his family.

The minimum monthly benefit payable to a worker or to his family is $10. The maximum is twice the primary benefit, 80 per cent of the average monthly wage, or $85, whichever is least, except that the maximum cannot reduce the family total below $20. Benefits are not payable for

Table 25

Benefits, Number of Recipients and Average Amount Received Under Old Age and Survivors Insurance, 1947*

Type of Benefit	*Number*	*Average Amount*
Primary	909,187	$24.97
Wife's	278,951	13.21
Widow's	170,969	20.43
Child's	535,074	12.81
Widow's current	136,379	20.50
Parent's	10,299	13.47

* Source: Advisory Council on Social Security, 1948.

any month in which a beneficiary earns $15 or more in covered employment. When a primary beneficiary earns this amount the benefits of all dependents are suspended as well.

ELIGIBILITY REQUIREMENTS

Eligibility for benefits is based on the extent and proportion of time which the worker spent in employment covered under the program. There are two types of "insured status." If a worker is "fully insured," he or his family are eligible for any of the types of benefit provided. To be fully insured he must have worked in covered employment for, roughly, half the time since the start of the program or since his attainment of age 21, except that he must have worked for at least a year and a half, and need not have worked for more than 10 years. If a worker is not fully insured, his survivors are nevertheless eligible for certain types of benefits —widow's current, child's and the lump-sum—if he is "currently insured" —that is, if he has worked in covered employment for, roughly, half the time in the 3 years immediately before his death.

COVERAGE

The present program is limited largely to employees in commerce and industry. The major groups now excluded from coverage are set forth in Table 26:

Table 26

GROUPS EXCLUDED FROM OLD AGE AND SURVIVORS INSURANCE PROGRAM, 1947*

Group	*Number of Persons (Approximate)*
The self-employed, including farmers	11,000,000
Agricultural workers	3,500,000
Household workers	2,500,000
Employees of non-profit institutions	1,000,000
Employees of the federal government	2,000,000
Railroad workers	1,700,000
Members of the armed forces	1,400,000
Employees of state and local governments	4,000,000

* Source: Advisory Council on Social Security, 1948.

Therefore, only about three out of five workers are in jobs covered by the old age and survivors insurance program.

The reasons for the exclusions vary, depending on the exclusion. Some of the groups, such as the self-employed and farm and domestic workers, were excluded chiefly for administrative reasons. The exclusion of nonprofit institutions was caused by the opposition of the organizations involved. At the time of the original Act and at the time of the 1939 amendments, they feared that imposition of the old age and survivors insurance taxes might be a precedent for the imposition of other taxes and possibly also for interference with religious activities. There appear to be constitutional barriers to the coverage of state and local employees under a compulsory program except those engaged in businesses and industries conducted by the government such as public utilities, subways, and the like. Unions representing federal employees and railroad workers have opposed the inclusion of these groups.

FINANCING

The present old age and survivors insurance program is financed by contributions from covered employers and employees. Employers deduct from the wages of their employees 1 per cent of all wages up to $3000 a year for any one employee, and add to it their own contributions of 1 per cent. The contributions are turned over each quarter to the Bureau of Internal Revenue, together with a list of employees' names, account numbers, and amounts of wages paid in the quarter. (The wage amounts are posted on individual records by the Social Security Administration and are used in determining eligibility for benefits and benefit amounts.)

The contributions are deposited in the Federal Old-Age and Survivors Insurance Trust Fund and are used to pay the benefits and administrative expenses of the program. By 1948, the Trust Fund amounted to over 9.6 billion dollars. Contributions amounted to $1,556,835,527 in the calendar year 1947, benefit payments amounted to $466,192,502, and administrative expenses were $45,561,225. Interest on the Trust Fund was $164,186,025. Under the law, increases are scheduled in the contribution rates from the present 1 per cent on employers and 1 per cent on employees to 1½ per cent each in 1950 and 2 per cent each in 1952. The Social Security Act contains a provision that appropriations will be made from general revenues if needed to meet the obligations of the system.

ADMINISTRATION

The administration of the OASI program is wholly in the hands of the federal government. Two agencies divide these administrative functions. Taxes are collected by the Treasury and paid into the OASI trust fund of which the Secretary of the Treasury is the managing trustee. The Treasury also issues benefit checks and makes appropriations from the fund to cover administrative expenses.

All other administrative functions are handled by the Bureau of Old-Age and Survivors Insurance of the Social Security Administration. Centralized records are kept in Baltimore and field offices are located throughout the United States. In addition, research and actuarial divisions are attached to the Social Security Administration in Washington. An appeals council, which hears cases involving claimants who are dissatisfied with interpretations of eligibility or amount of benefits due, is also attached to the Social Security Administration.

Analysis of the Old Age and Survivors Insurance Program

The Old Age and Survivors' Insurance Program attempts to provide income security for retired workers and survivors who have lost their breadwinner. Little quarrel can be made with the endeavor to protect the aged and the survivors by the insurance method.

> Differential benefits based on a work record are a reward for productive effort and are consistent with general economic incentives, while the knowledge that benefits will be paid—irrespective of whether the individual is in need—supports and stimulates his drive to add his personal savings to the basic security he has acquired through the insurance system. Under such a social insurance system, the individual earns a right to a benefit that is related to his contribution to production. This earned right is his best guaranty that he will receive the benefits promised and that they will not be conditioned on his accepting either scrutiny of his personal affairs or restrictions from which others are free.[14]

On the other hand, the OASI program, as of January 1, 1949, had serious defects as an insurance program. The coverage was inadequate: only approximately 60 per cent of the jobs were covered. The eligibility requirements were unduly restrictive for older workers: because of these restrictions only about 20 per cent of those aged 65 or over were either covered or receiving benefits. And the benefits were inadequate: benefits for a single person average only approximately $25 per month.

The need to reëxamine social security including the OASI program was recognized in Congress for some time prior to 1949. To guide its consideration, the Senate authorized the appointment of an Advisory Council on Social Security in 1947. The Council, which was composed of experts and persons representative of various interests and areas,[15] recommended an extensive expansion of the OASI program based upon the philosophy that "Public-assistance payments from general tax funds to persons who are found to be in need have serious limitations as a way of maintaining family income."[16] The Advisory Council's proposals recognized that the transfer from assistance to insurance would take some time, but it looked forward "to the time when virtually all persons in the United States will have retirement or survivorship protection under the old age and survivors' insurance program."[17]

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[14] *Old Age and Survivors Insurance*, a report to the Senate Committee on Finance from the Advisory Council on Social Security (Washington, 1948), p. 1. Hereafter cited as *Old Age and Survivors Insurance.*

[15] The members of the Advisory Council were: Edward R. Stettinius, Jr., rector, University of Virginia, Chairman; Sumner H. Slichter, Lamont University Professor, Harvard University, Associate Chairman; Frank Bane, executive director, Council of State Governments; J. Douglas Brown, dean of the faculty, Princeton University; Malcolm Bryan, vice-chairman of board, Trust Co. of Georgia; Nelson H. Cruikshank, director of social-insurance activities, American Federation of Labor; Mary H. Donlon, chairman, New York State Workmen's Compensation Board; Adrien J. Falk, president, S & W Fine Foods, Inc.; Marion B. Folsom, treasurer, Eastman Kodak Co.;

COVERAGE

To remedy inadequate coverage, the Advisory Council on Social Security recommended that the self-employed, farm workers, household workers, and employees of non-profit institutions be brought under the act.[18] The administrative difficulties in insuring the first three groups could be overcome in a number of ways, for which there are clear precedents in methods used in other countries or in voluntary dues paying organizations.[19]

The Advisory Council also recommended that federal civilian employees, railroad employees, members of the armed services, and employees of state and local governments also be included within the coverage of OASI. In so far as the first two groups are involved, however, their union representatives have been unalterably opposed to the inclusion of their separate and more liberal systems within the general system. This is true although the Advisory Council recommended that the general systems be made as liberal as the civil service and railroad systems. It is not likely that Congress will follow the Advisory Council recommendation in view of this opposition.

There would be little administrative difficulty in bringing members of the armed forces under OASI except in so far as rating board and lodg-

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M. Albert Linton, president, Provident Mutual Life Insurance Co.; John Miller, assistant director, National Planning Association; William I. Myers, dean, New York State College of Agriculture; Emil Rieve, president, Textile Workers' Union, and vice-president, Congress of Industrial Organizations; Florence R. Sabin, scientist; S. Abbot Smith, president, Thomas Strahan Co.; Delos Walker, vice-president, R. H. Macy & Co.; and Ernest C. Young, dean of the graduate school, Purdue University.

[16] *Old Age and Survivors Insurance*, p. 1.

[17] *Old Age and Survivors Insurance*, p. 2.

[18] "To make it absolutely clear" that this legislation had no implications for religious freedom, the Council recommended that clergymen and members of religious orders be exempt from coverage under the program.

[19] The most commonly discussed administrative program involves the use of stamp books. Stamps could be sold in convenient denominations, which would then be pasted in books. The stamp books, when filled, would be presented to the Social Security Administration office for credit, and a new book issued. The Treasury Department and the Social Security Administration have developed extensive plans to administer insurance for these groups of workers, and the problem is no longer considered unmanageable.

ing as part of wages is concerned. On the other hand, employees of state and local governments could only be included under OASI if the states were willing to enter into voluntary agreements with the federal government for that purpose.[20] In the case of state and local activities which are classified as proprietory functions, for example, state liquor stores, municipal subway systems, or other public utilities operated by government, there does not seem to be any reason, constitutional or otherwise, why OASI coverage could not be made compulsory.[21]

ELIGIBILITY

As the law stood on January 1, 1949, only about 20 per cent of persons over 65 were eligible for benefits although the system had been in operation for 11 years. This was not only because of the limited coverage but also because of the unduly restrictive requirements laid down for older workers to qualify for benefits. To be fully insured, a worker had to be employed in covered employment for approximately half the period since the start of the program, or since his attainment of age 21, except that he must have worked for at least a year and a half and need not have worked for more than 10 years. The Advisory Council on Social Security recommended that

> the requirements for fully insured status should be one quarter of coverage for each two calendar quarters elapsing after 1948 or after the quarter in which the individual attains the age of 21, whichever is later, and before the quarter in which he attains the age of 65 (60 for women) or dies. Quarters of coverage earned at any time after 1936 should count toward meeting this requirement. A minimum of six quarters of coverage should be required and a worker should be fully and as now permanently insured if he has forty quarters of coverage. In cases of death before January 1, 1949, the requirement should continue to be one quarter of coverage for each two calendar quarters elapsing after 1936 or after the quarter in which the age of 21 was attained, whichever is later, and before the quarter in which the individual attained the age of 65 or died.[22]

This recommendation fits in with the recommendations for enlarged coverage because if the law were amended as to coverage but not as to eligibility, most of the newly covered workers would find that, upon reaching the age 65, they would not be eligible for benefits.

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[20] This is necessary because of the constitutional bar to federal taxation of state activities.

[21] There are two principal dangers to permitting voluntary coverage of a social insurance program. The first is that coverage will not be utilized when needed. The second is that the good risks will insure privately, the bad ones will insure publicly, and the cost of social insurance to the taxpayer will thereby be increased.

[22] *Old Age and Survivors Insurance*, p. 3.

BENEFITS

An average benefit of $25 per month for a single person cannot be called liberal by any standards. The Advisory Council recommended that the upper limit of earnings subject to contributions and credited to benefits should be raised from $3000 to $4200, and that the maximum average monthly wage used in the calculation of benefits should be increased from $250 to $350. A comparison of the old age benefits proposed by the Advisory Council with the old age benefit under the law as of January 1, 1949, is set forth in Table 27. It will be noted that the Advisory Council would increase the benefits for all ranges of monthly wages, and would make them uniform for all years of coverage. The lone exception is that the benefits for the $50 wage as of January 1, 1977 would be less under the Advisory Council proposal.

Table 27

ILLUSTRATIVE OLD AGE BENEFITS UNDER PRESENT FORMULA[a] AND THAT PROPOSED[b] BY ADVISORY COUNCIL*

(*Note:* Potential beneficiary in covered employment continuously from Jan. 1, 1937, to date shown)

Average Monthly Wage	*Basic Amount*[c]		*Entitlement Date*					
			Jan. 1, 1949 (12 yr. of coverage)		*Jan. 1, 1957 (20 yr. of coverage)*		*Jan. 1, 1977 (40 yr. of coverage)*	
	Present Law	*Advisory Council Proposal*	*Present Law*	*Advisory Council Proposal*	*Present Law*	*Advisory Council Proposal*	*Present Law*	*Advisory Council Proposal*
$ 50.......	$20.00	$25.00	$22.40	$25.00	$24.00	$25.00	$28.00	$25.00
75.......	22.50	37.50	25.20	37.50	27.00	37.50	31.50	37.50
100.......	25.00	41.25	28.00	41.25	30.00	41.25	35.00	41.25
125.......	27.50	45.00	30.80	45.00	33.00	45.00	38.50	45.00
150.......	30.00	48.75	33.60	48.75	36.00	48.75	42.00	48.75
200.......	35.00	56.25	39.20	56.25	42.00	56.25	49.00	56.25
250.......	40.00	63.75	44.80	63.75	48.00	63.75	56.00	63.75
300.......	40.00[d]	71.25	44.80[d]	71.25	48.00[d]	71.25	56.00[d]	71.25
350... .	40.00[d]	78.75	44.80[d]	78.75	48.00[d]	78.75	56.00[d]	78.75

* Source: *Old Age and Survivors Insurance*, p. 36.

[a] 40 per cent of the first $50 of the average monthly wage plus 10 per cent of the next $200, increased by 1 per cent of the sum of the foregoing for each year of coverage.

[b] 50 per cent of the first $75 of the average monthly wage plus 15 per cent of the next $225.

[c] Under present law, the benefit amount without the increment for years of coverage; under the Advisory Council's proposal, the amount payable.

[d] Maximum average monthly wage used in computing benefits under present law is $250.

Similar liberalizations of benefits were recommended by the Advisory Council for the various survivors' benefits. A comparison of survivors' benefits as of January 1, 1949, with those recommended by the Advisory Council is set forth in Table 28.

Table 28

Maximum Amounts of Benefits Payable Under the Present Law[a] and Under Advisory Council's Proposal,[b] at Various Levels of Average Monthly Wage, to Survivor Families Consisting of a Widow and One or More Child Beneficiaries*

Average Monthly Wage	*Applicable Provisions*	*Primary Insurance Benefit*	*Maximum Family Benefit*	*Benefit Amount Payable to*				
				Widow	*First Child*	*Second Child*	*Third Child*	*Fourth Child*
$ 50.....	Present law	$22.00	$ 40.00	$16.50	$11.00	$11.00	$ 1.50	..
	Advisory Council	25.00	40.00	18.75	18.75	2.50	..	..
75.....	Present law	24.75	49.50	18.56	12.38	12.38	6.18	..
	Advisory Council	37.50	60.00	28.13	28.13	3.74	..	..
100.....	Present law	27.50	55.00	20.63	13.75	13.75	6.87	..
	Advisory Council	41.25	80.00	30.94	30.94	18.12	..	..
125.....	Present law	30.25	60.50	22.69	15.13	15.13	7.55	..
	Advisory Council	45.00	100.00	33.75	33.75	22.50	10.00	..
150.....	Present law	33.00	66.00	24.75	16.50	16.50	8.25	..
	Advisory Council	48.75	120.00	36.56	36.56	24.38	22.50	..
200.....	Present law	38.50	77.00	28.88	19.25	19.25	9.62	..
	Advisory Council	56.25	160.00	42.19	42.19	28.13	28.13	$19.36
225.....	Present law	41.25	82.50	30.94	20.63	20.63	10.30	..
	Advisory Council	60.00	180.00	45.00	45.00	30.00	30.00	30.00
250.....	Present law	44.00	85.00	33.00	22.00	22.00	8.00	..
	Advisory Council	63.75	191.25	47.81	47.81	31.88	31.88	31.87
300.....	Advisory Council	71.25	213.75	53.44	53.44	35.63	35.63	35.61
350.....	Advisory Council	78.75	236.25	59.06	59.06	39.38	39.38	39.37

* Source: *Old Age and Survivors Insurance*, p. 40.

[a] It is assumed that the insured worker had 10 increment years. Maximum family benefit is least of: (1) 80 per cent of average monthly wage, (2) twice the primary insurance benefit, or (3) $85. Widow receives three-fourths of primary benefit; each child receives one-half of primary benefit.

[b] Assumes benefit formula in Advisory Council's proposals. Maximum family benefit is lesser of: (1) 80 per cent of average monthly wage, or (2) three times the primary insurance benefit. Widow and first child each receive three-fourths of primary benefit. Each additional child receives one-half of primary benefit.

To finance its proposed benefits, the Advisory Council recommended that the contribution rates should be raised for both employees and employers to 1.5 per cent, and when needed, to 2 per cent. The Advisory Council, therefore, did not recommend a system which is fully paid for by reserves. The reasoning seems sound, for unlike private insurance, social insurance is backed by the taxing power of government and therefore does not need reserves sufficient to cover all liabilities.

Moreover, the accumulation of governmental reserves can be seriously deflationary. In times of threatened inflation, this is an advantage. In more normal periods, however, deflationary pressures which reduce spending have adverse effects on income and employment unless payments into the reserve fund are invested in as productive a manner as they would be if taxes were lower and the funds were left in private hands.

There are other reasons why the reserve fund idea is losing force.

> At one time it was thought that a reserve was necessary to safeguard the rights of the contributors. An earmarked fund built up by specific taxes paid by employers and workers would, it was thought, be unlikely to be raided by Congress for other purposes, and would free the system from dependence upon annual appropriations from a possibly hostile Congress. But the longer the program has been in existence, the larger the number of beneficiaries, and the greater the proportion of the population who have paid these earmarked taxes, the more is it coming to be realized that the ultimate safeguard of the rights of the contributors lies in the influence of the electorate and the pressure it can exert upon Congress to implement the legal commitments of the Social Security Act. The popular appeal of the argument for the reserve as a safeguard of the rights of the contributors has also undoubtedly been weakened by a growing realization that the funds are, in any case, currently borrowed by the federal government which issues in return a promise to pay. Like the rest of the National Debt, therefore, the security of the bond holdings of the Old-Age and Survivors Insurance Trust Fund rests upon the taxing power of the United States Government and the willingness of the voters to live up to their financial commitments.[23]

Finally, it should be noted that a government subsidy may be a substitute rather than an additional cost. For if the subsidy is not granted to the insurance program, it will have to be given to an assistance program.

> A large proportion of low-paid workers, if excluded from coverage or granted grossly inadequate OASI benefits, will apply for Old-Age Assistance which is financed entirely by the general taxpayer. There remains, however, some difference of opinion as to the specific proportion of cost which should be provided from general taxation compared to contributions from employers and workers. So long as it is desired to emphasize the contributory element or, on the analogy of depreciation, to include part of the cost of old age (human depreciation) in production costs, the role of the public subsidy must be limited. In any case, so long as differential benefits are payable, a substantial worker's contribution seems inevitable.[24]

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[23] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 113–114.

[24] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 114.

Old Age Assistance

Old age assistance is available, under certain conditions, for aged persons who are in need. As of June 1948, old age assistance was far more important in terms of recipients than OASI, 2,367,597 receiving the former, as against 1,465,052 persons (including primary beneficiaries, their wives, aged widows, and parents) receiving the latter.[25]

State old age assistance laws were in effect in 34 states prior to the passage of the Social Security Act of 1935. The old age assistance sections of this Act provided for grants-in-aid to states to care for the *needy* aged. The effect of this law was to extend old age assistance to all the states, and to liberalize both the conditions under which assistance is given and the amount of the benefits.

The Social Security Act makes grants-in-aid for old age assistance contingent on an age requirement no higher than 65 years, a residence requirement which does not exclude persons who have resided in the state for five of the nine years immediately preceding application, and for one year continuously immediately preceding application; and a citizenship requirement which does not exclude any citizen of the United States. State laws in existence prior to 1935 frequently contained more exacting eligibility requirements, particularly as to residence.

The federal aid for old age assistance was equal, after October 1948, to three-fourths of the first $20 per recipient, multiplied by the number of recipients in the particular state, plus 50 per cent of the remaining costs not in excess of $30 per month.[26]

Federal aid is limited to needy persons, but the states are permitted wide latitude in defining need, subject only to the requirement (effective July 1, 1941) that any income or resources of the applicant must be taken into consideration, and (effective August 1943), to an annual review of the recipient's eligibility for assistance. Such review, however, varies from a thorough one in some states to a perfunctory one in others.

As might be expected the concept of need is subject to widely different interpretations. Persons similarly situated in terms of need, but residing in different states, are denied old age assistance in one state and granted it in another. Few of the states have made any attempts to define need in terms of minimum budgetory requirements. Moreover, the extent to which resources possessed by the applicant and the responsibility of relatives are considered in determining eligibility is also subject to considerable variation.

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[25] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 296.

[26] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 297.

The federal grants under the Social Security Act are restricted to cash payments. In general, this is wise, for it permits the recipients to spend their benefits as they wish and thus to retain their sense of respectability. One drawback, however, is that cash payments do not include sufficient funds for adequate medical care so often needed by the aged.

In June 1948, the average monthly payment under the old age assistance program was $38.18. By states, the variation was from $15.79 in Mississippi to $57.17 in Washington. Even in the most liberal state, an aged person would find difficulty making ends meet on his old age assistance alone.[27]

Aid to Dependent Children

A second assistance program operated under the Social Security Act involves aid to dependent children.[28] By 1948, this program was operating in 47 states and 3 territories. In addition, Nevada was financing a program without federal funds and Florida, Kentucky, and Nebraska were operating state programs in addition to the federal-state system.

In June 1948, 1,145,930 children in 449,202 families were receiving aid to dependent children.[29]

Like old age assistance, the aid to dependent children program provides for federal grants to states for assistance based on need. Certain basic conditions are established in the Social Security Act which state dependent children assistance laws must meet in order to be eligible for federal grants. As in the case of old age assistance, the federal grants have liberalized programs which in most states were in effect years before 1935.

Since October 1948, federal grants-in-aid "have equalled three fourths of the first $12 per child multiplied by the number of children aided plus one half of the remaining expenditures, not counting any sum in excess of $27 for the first child and $18 for each subsequent child in the same home."[30] As in old age assistance, the federal government pays one-half of the administrative costs.

The federal law provides that grants shall be available if states do not establish more rigid requirements than the following:

1. *Need.* States may adopt their own definition, but must take into account "any other income and resources of the child applying."
2. *Residence.* Aid must be available to otherwise qualified children who have been state residents for one year prior to the application or who

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[27] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 297–318.

[28] The third assistance program, aid to the blind, is considered in Chapter 26.

[29] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 318–319.

[30] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 318.

were born within the year prior to application to a mother who has been a state resident for one year prior to the birth.

3. *Citizenship.* States may adopt a citizenship requirement as long as all citizens are eligible.
4. *Age and school attendance.* Federal Aid is limited to children under 16 or under 18 if regularly attending school.
5. *Reasons for dependency.* Federal funds are limited to those cases involving children who are deprived of parental support or care because of the death, continued absence, or incapacity (physical or mental) of the parent.
6. *Living arrangements.* To receive federal aid, the child must be living with a parent or relative.[31]

Some states now give aid on a more liberal basis than the federal law establishes, but the majority follow the federal specifications. In regard to need, however, there is the same variation of interpretation as was noted in the case of old age assistance. Likewise, there is a tremendous difference in the amount of payment. In June 1948, the average monthly payment under the dependent children program was $66.21. The average monthly payment varied from $26.29 in Mississippi to $109.94 in California.[32]

Since the average monthly payment as of June 1948 under the old age assistance program was $38.18 and under the dependent children program, $66.21, it would appear at first glance that the United States was treating its dependent children better than its indigent aged. This would seem logical in view of the fact that children are the citizens of tomorrow. Unfortunately, in actual fact, the dependent children program is one of the most illiberal because average payment is not for the care of one child, but for an average of more than 2.5 children, and in most cases must provide subsistence for one parent as well. The failure of a society to care adequately for its dependent children is shortsighted from both the social and economic points of view, if only because of the well-known relationship of inadequate parental care and child neglect, poverty and crime, and the fact that crime costs society much more than its prevention.

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[31] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 324–325.

[32] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 324–325.

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Unemployment Compensation

A society which is industrially progressive will always have a certain amount of unemployment. Thus most economists estimate that under conditions of full employment in the United States, two or three million persons will actually be without jobs for one reason or another. In depressed times, unemployment can rise to as high as 15 or 20 million. Unemployment insurance or compensation in the United States has been designed to aid workers withstand the costs of involuntary unemployment. For reasons which will be discussed in the course of this chapter, it will be seen that the unemployment compensation system as of January 1, 1949, was directed primarily toward providing compensation for short-term involuntary unemployment. Persons unemployed for long periods have, therefore, to turn to general assistance.

The Unemployment Insurance Program

Although the federal government has important responsibilities, the unemployment insurance program is primarily a state program. The Social Security Act of 1935 provided for a 3 per cent tax on the payroll of all employers employing 8 or more workers during 20 weeks of 1 year in all except a certain excluded list of employments. The Social Security Act further provided that employers who were paying taxes in their own states for the financing of an unemployment insurance law could offset that state tax against the federal tax up to 90 per cent. The inducement afforded by this offset provision resulted in the passage of unemployment compensation legislation by all the states in a very short time.

The Social Security Act laid down certain conditions which state unemployment compensation laws were required to meet if employers of that state were to be made eligible for the tax offset. In the first place, all funds collected by the state had to be used entirely for the payment of unemployment benefits through state public employment offices or a similar state agency approved by the Social Security Administration. Second, the Social Security Act provided that the taxes must be deposited immediately upon receipt in the Unemployment Trust Fund of which the Secretary of the Treasury is the administrator. Third, no benefits were to be paid until two years after the collection of contributions began. Fourth, a state law could not deny benefits to a person otherwise eligible if that person refused to accept new work because the position offered was vacant on account of a labor dispute; if the wages and conditions of work were substantially less favorable than those of similar jobs in the area; or if as a condition of employment the person would be required to join a company union or to sign a yellow-dog contract. Finally, states must meet certain administrative standards established by the Social Security Administration in order to qualify for the tax offset.

COVERAGE

The Advisory Council on Social Security estimated that in the average week ended June 30, 1948, an estimated 3.4 million persons were excluded from unemployment insurance coverage because they were working for small firms.[1] This is true despite the fact that by August, 1948, only 19 states limited coverage to firms with 8 employees for 20 weeks, which is the limitation set forth in the original Social Security Act, and 16 state

Table 29

TOTAL LABOR FORCE BY COVERAGE STATUS AS TO UNEMPLOYMENT INSURANCE IN AN AVERAGE WEEK OF YEAR ENDED JUNE 30, 1948*

Status			*Persons in Millions*
Total labor force			62.0
Unemployed			2.1
Employed, total			59.9
Self-employed and unpaid family workers			12.8
Farm operators and unpaid family workers		6.3	
Urban self-employed and unpaid family workers		6.5	
Employed by others			47.1
Covered by unemployment insurance		32.9	
State laws	31.3		
Federal program for railroad workers	1.6		
Not covered by unemployment insurance		14.2	
Small firms	3.4		
Employees of non-profit organizations	.9		
Federal employees	1.7		
Armed forces	1.3		
Agricultural workers	1.7		
Domestic workers in private homes	1.7		
Employees of state and local governments	3.5		

* Source: *Unemployment Insurance*, a report to the Senate Committee on Finance from the Advisory Council on Social Security (Washington, 1948), p. 8.

Data on labor force, unemployed, and total employed, from *Monthly Report on the Labor Force*, Bureau of the Census; employment covered by unemployment insurance, estimated by the Bureau of Employment Security; employment not covered by unemployment insurance, from Bureau of the Census, adjusted by Bureaus of Old-Age and Survivors Insurance and Employment Security.

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[1] *Unemployment Insurance*, a report to the Senate Committee on Finance from the Advisory Council on Social Security (Washington, 1948), p. 17.

laws covered employers of 1 or more persons. The laws in 29 jurisdictions provided that coverage will be extended to small firms if the federal size of firm limitation is removed.

In addition to small firm exclusions, the federal unemployment tax does not cover the following employments: the self-employed; agricultural labor; domestic service; service of an individual for his son, daughter, or spouse; or of a minor child for his parent; employment in the federal, state, or local governments, or in foreign governments; or employment for non-profit organizations; certain types of casual labor; and a few other services. The state laws generally follow the federal exclusions with occasional liberalizing features. Railroad employment, which was originally under the general program, is now covered by a separate feature program, and seamen, who were originally excluded from the general program, have now been brought under it.

These coverage details are summarized in Table 29. The net effect of the various exclusions means that only slightly more than half of the labor force is covered by the state or railroad unemployment compensation laws.

ELIGIBILITY

The mere fact that a worker is engaged in covered employment does not automatically make him eligible for benefits. In addition to being covered, the worker must be employed a specified number of weeks during a base period or a base year before the beginning of the benefit year or have earned a certain minimum sum during such period. As of 1948, this requirement was defined in different ways in the various states as follows:

(1) Three states require a worker to have had a given number of calendar weeks of employment within the base period; in 2 cases a minimum sum must also have been earned.
(2) Thirteen states qualify a worker if in his base year he has earned in total a minimum sum (ranging from $100 to $300).
(3) Four states require total earnings of a minimum amount plus specified minimum earnings in one or more quarters.
(4) One state (Utah) qualifies workers who have earned 14 per cent of the state average annual wage and also the higher of $150 or 50 per cent of high quarter wages.
(5) The remaining states, by far the majority, require a worker to have earned in his base year a sum equal to a defined multiple (usually 30 times) his weekly benefit amount (16 states), or combine this provision with some additional limitation, such as wages in not more than one quarter or minimum wages in the high quarter, or with a smaller multiple in the case of workers entitled only to the minimum weekly benefit (14 states).[2]

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[2] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 130–131.

Since eligibility is related to employment within a particular state, the worker would lose rights by moving from one state to another if it were not for the existence of an Interstate Benefit Plan whereby workers who qualify for benefits in one state may draw their benefits in another. The home state pays the benefits and the state in which the worker then dwells acts as the agent for the transaction. The Interstate Benefit Plan, however, does not help a worker who would qualify for benefits only if his credits in both states were totaled. As a result, an Interstate Wage Combining Arrangement has been subscribed to by 45 states which provides for the totaling of credits in instances where that is necessary to make determinations for eligibility.[3]

DISQUALIFICATIONS

Since the purpose of unemployment compensation is to provide insurance for involuntary unemployment, all states require that recipients or unemployment compensation must be ready and able to work. To receive compensation, all employees must register for work at a state employment office. In addition, all the states but Montana provide for a reduced benefit in case of partial unemployment, and Montana defines total unemployment to include employment which pays only $7 per week or the equivalent of one eight-hour day.[4]

In addition to eligibility requirements, a worker may be disqualified for unemployment insurance if his unemployment is caused by a labor dispute; if he was discharged for misconduct connected with the work; if he left his job voluntarily without good cause; and if he refused suitable employment without good cause.[5]

It must be emphasized that these eligibility requirements open the door to a considerable amount of administrative discretion. What is good cause for quitting a job or refusing another in one state may not be considered so at all in another. Moreover, the application of the labor dispute requirements depends considerably upon the administrators' sympathy toward labor or management. If, for example, a worker is laid off because his factory cannot operate without parts from another factory, which in turn is closed down by a strike, should the worker laid off in the first plant be entitled to unemployment compensation?

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[3] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 132–134.

[4] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 134.

[5] For a discussion of these issues, see the following articles in the *Yale Law Journal*, vol. 55 (1945): Gladys Harrison: "Forenote: Statutory Purpose and Involuntary Unemployment," pp. 117–122; Louise F. Freeman, "Able to Work and Available for Work," pp. 123–133; Arthur M. Menard, "Refusal of Suitable Work," pp. 134–136; Katharine Kempfer, "Disqualifications for Voluntary Leaving and Misconduct," pp. 147–166; Leonard Lesser, "Labor Disputes and Unemployment Compensation," pp. 167–180; and Earle V. Semrell, "Employer Fault vs. General Welfare as the Basis of Unemployment Compensation," pp. 181–204.

DURATION OF BENEFITS

The framers of the Social Security Act conceived of the unemployment compensation program as insurance for very short-term unemployment. There has been a tendency, however, during recent years to expand the benefit period from the 16 weeks or less which featured state laws enacted immediately after the passage of the Social Security Act of 1935. By June 30, 1947, 87 per cent of all covered workers were in states which paid benefits for a maximum duration of 20 weeks or more, as compared with 12 per cent who were similarly situated under the 1937 laws.[6] Even with these liberalizations, however, exhaustion of benefits by the unemployed remains a common development. The unemployment compensation program, therefore, is still a program for short-period unemployment.

All states but one require a waiting period before compensation becomes payable. Originally, most states provided for a two-week waiting period, but today one week is by far the most common.

Benefits

All the state laws base the weekly benefit on the past earnings of the beneficiary. Most of the original laws provided that the benefit rate should equal 50 per cent of his normal full-time wage. However, the administrative difficulties involved in securing data and keeping records has led 38 states to adopt benefit formula based on quarterly reports and 8 states to evolve a formula based on annual earnings. Thus, by 1948, only 2 states based benefits on the weekly wage.[7]

Initially, when states adopted the quarterly benefit formula, they followed the idea of a benefit equal to 50 per cent of full-time earnings. As a result, benefits were defined as $1/26$ of highest quarterly earnings. However, the use of quarterly earnings makes patterns of employment as influential as levels of wages in determining benefits. Thus a worker who has worked less than the full 13 weeks in a quarter would receive less in benefits when unemployed than the worker who has worked the full 13 weeks. Consequently, many states revised their laws to provide a fraction larger than $1/26$ of highest quarter earnings.

Benefits are further removed from a relationship to actual earnings by the establishment of minimum and maximum, which the worker can receive. As of December 1948, the minima varied from $3 in Mississippi and Missouri to $14 in Nevada; and the maxima from $18 in Tennessee to $36 in Connecticut, with Massachusetts establishing the maxima essentially in relation to the worker's average wage.

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[6] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 139.

[7] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 144 ff.

FINANCING UNEMPLOYMENT INSURANCE

All but 2 of the states provide for the financing of unemployment insurance solely by contributions from employers based upon a percentage of the total covered payroll. The standard tax of 2.7 per cent is in use in all states except Michigan, where the rate is 3 per cent. However, because of the existence of experience or merit rating plans, the average employer contribution rate had fallen by 1947 to 1.4 per cent, and in 2 states the rate was 0.5 per cent or less.[8]

We have already noted that state taxes for unemployment insurance are deposited in the Unemployment Trust Fund, which is administered by the Secretary of the Treasury. The costs of administration of unemployment insurance are met by the federal government and are paid for out of the 0.3 per cent of the federal employment tax which is taken by the federal government.[9] Because the administrative costs over the years have averaged considerably less than the receipts from this 0.3 per cent tax, Congress in 1944 authorized that the excess over administrative costs which this tax yielded should be placed in a special unemployment account and should be available as advances free of interest to state unemployment funds when and if the reserves of the latter became dangerously low.

EXPERIENCE RATING

By the end of 1948, all the states provided for a variation of the employers' tax rate, based upon the employment experience of the employer. These plans vary in method but their prime purpose is to provide an incentive for an employer to stabilize his employment and therefore to cut down the amount of unemployment. In actual operation, however, they have had somewhat different results.[10]

As a matter of fact, we have already noted in a number of earlier chapters that an employer does not have complete control or even substantial control of the size of his labor force over periods of time. To be sure, an employer may be able to cut off the peaks and fill up the valleys of demand by careful attention to marketing and sales programs. The character of the industries and the demand for the product of that industry is, however, likely to predetermine whether or not the employer has a stable employment situation. The fact that a number of states permit employers to make voluntary contributions of an amount sufficient to qualify them for a tax reduction must be taken as a frank admission that stabilization as an objective of experience rating is being abandoned.[11]

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[8] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 144 ff.

[9] That is the difference between the 3 per cent federal tax and the 2.7 per cent offset.

[10] For discussions of experience rating, see A. R. Arnold, "Experience Rating," *Yale Law Journal*, **55**:218–241 (1945); and E. P. Schmidt, "Experience Rating and Unemployment Compensation," *Yale Law Journal*, **55**:242–252 (1945).

One of the most unfortunate economic results of experience rating is that taxes are likely to be reduced at times of prosperity and raised in times of depressions. Experience rating makes insufficient provision for the fact that most good employment records are made when general economic conditions are good and bad ones when general economic conditions are bad. Consequently, the costs of unemployment insurance taxes are low when industry is best able to pay them, and high when industry is least able to pay them.

Another effect of experience rating is that it tends to give employers an important interest in restricting benefits as much as possible. "The prospects of a favorable tax rate are increased in those states which have the longest waiting periods, the most rigid eligibility and disqualification provisions, the least benefit . . . "[12]

In sum, therefore, it would appear that whatever advantages accrue from experience rating, the disadvantages are of major consequence.

ADMINISTRATION

Prime responsibility for the administration of unemployment compensation naturally rests in the hands of the states. The federal government, however, is involved in the financing, as already noted. In addition, through the Bureau of Employment Security of the Social Security Administration, the federal government has certain other duties. Primary among these is the obligation to certify that the state laws comply with the requirements of the Social Security Act so as to qualify for the tax-offset and the payment of administrative costs. In addition, the Bureau of Employment Security also provides research and information programs.

Evaluation of the Employment Compensation Program

The tremendous variation of employment benefits from state to state makes an over-all analysis more difficult than in the case of old age and survivors insurance. There are, however, certain basic comments which can be made as to the system as a whole, as well as some supplementary remarks concerning coverage, eligibility, adequacy of benefits, and financing.

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[11] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 162.

[12] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 166.

Perhaps the basic fault with the American unemployment compensation system is that there exists no national plan, but rather a series of state plans. Unfortunately, labor markets and state boundaries are not contiguous. Despite the increasing coöperation between states, the fact remains that persons residing in the same labor market (for example, the New York City, St. Louis, Philadelphia, or Washington, D. C., areas) can be treated with vast difference in case of unemployment, solely because their place of work is across a state line. Moreover, under the existing state systems, employers are required to submit different forms, comply with different procedures, and pay different contribution rates in accordance with varying state laws. An employer operating on a nationwide basis is required to submit quarterly wage reports on individual employees in some states, annual reports in others, and weekly reports in still others. Employees who reside in New Jersey received minimum weekly benefits of $9 and maximum weekly benefits of $22 as of December 31, 1948; those who resided in New York, received minimum and maximum benefits of $10 and $26. In Louisiana, the minimum and maximum benefits were $5 and $25; in neighboring Mississippi, $3 and $20. The inequality of benefits from state to state can prove to be a serious discouragement to the mobility of labor; and the varying rates of employer contributions can result in an unhealthy race to reduce costs—and benefits—in order to attract business.

Despite these disadvantages of state unemployment insurance, it is firmly entrenched. There is little likelihood that a national system will be inaugurated to take its place in the near future.

Coverage

The problems of coverage under the unemployment compensation program are similar to those under old age and survivors insurance. In general, there are the same deficiencies, and various authorities, including the Advisory Council on Social Security, have proposed amendments to remedy this lack of adequate coverage.

There are, however, at least three additional problems of coverage under unemployment compensation which are not present, at least to the same extent, under the OASI program. In the first place, the need to include civilian employees of the federal government under unemployment insurance is more urgent than under the old age program because, although federal employees have a retirement plan, they have no unemployment benefit program whatsoever. As a result, the federal government is at a disadvantage in competing in the labor market, and laid-off federal employees must rely entirely on their own resources.

The second distinct problem of coverage under unemployment compensation involves the small firm exclusion. This appears particularly unjustifiable, since there is no compelling reason for its continued existence. Small firms have already been covered in some states. Retention of this exclusion discriminates against employees of small firms and puts the small employer at a disadvantage in competing in the labor market.

Finally, coverage of agricultural and domestic service employment is much more difficult under unemployment compensation than under OASI, and may not be administratively feasible. This is true because of the large amount of casual work and the rapid rate of turnover in these employments. "Because of the almost complete absence of standardization of wages and working conditions, its coverage would create serious difficulties in the administration of cases involving refusal of suitable work, discharge for misconduct connected with the work, and voluntary quitting."[13] For these reasons, the Advisory Council on Social Security recommended that initially only agricultural workers employed on the fringes of agriculture where employment is essentially industrialized should be brought under the unemployment compensation system, and that other agricultural and domestic workers be excluded pending further experience with the program.

ELIGIBILITY

"It has been estimated that as many as 20 per cent of the workers with some wages in covered employment during 1947 did not earn enough during that year to qualify for benefits."[14] Thus the mere fact that the worker is in covered employment does not entitle him to benefits. He must earn enough credits by previous employment, the idea being that he must demonstrate that he is permanently attached to the labor market. "However, because the benefit amount now bears a relatively loose relationship to normal full-time weekly wages . . . (often) it is impossible to say how long a period of employment is today regarded as evidence of attachment to the labor market."[15]

Eligibility is also affected by interpretations of disqualification conditions. The tendency in recent years has been to harden disqualifications, but the rules vary tremendously from state to state. Consistency and standardization of eligibility requirements and disqualification rules in the various jurisdictions are obviously in order.

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[13] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 130.

[14] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 132.

[15] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 132.

Duration and Amount of Benefits

The unemployment compensation system in the United States is essentially an insurance for very short-term unemployment. In 1946, benefit durations averaged 18.5 weeks.[16] Although there has been a definite trend toward liberalization since that time, available data indicate quite clearly that, even in prosperous times, there is a tendency for about one-half of all beneficiaries to exhaust their benefits before securing new work. When benefits are exhausted, those needing assistance must turn to general assistance, since there is no program similar to old age assistance available to the unemployed. It would appear, therefore, that an unemployment insurance program should at least insure for a period of one-half year (26 weeks) to meet the basic needs of even short-term unemployment.

The amount of benefits is no more satisfactory than the duration, and indeed, is less liberal in many states. Average weekly benefits in 1947 were only $17.83.[17] Despite some liberalization since then, the average benefit remains substantially below subsistence levels for heads of families. There is no doubt that most states could raise benefits considerably without endangering the will to work, that is without approximating potential earning power to such an extent that recipients would prefer benefits to wages, especially in view of the tendency to harden disqualification requirements and procedures.

Financing

A significant difference between old age and survivors insurance and unemployment compensation in the United States is that the worker contributes to the financing of the former, whereas with the exception of two states, the employer pays the entire costs of the latter. The absence of worker contributions has, on the one hand, tended to direct employer efforts toward reducing costs through experience rating and toward keeping benefits down, whereas on the other hand, it has tended to direct employee thinking toward raising benefits without too much regard for costs.

A strong case for instituting employee contributions was made by the Advisory Council on Social Security. The Council noted that "some of the employer's tax is shifted to the workers as employees and as consumers anyway," and therefore, "it would be far better to tax workers directly and to achieve the advantages to be derived from the recognition of their part in paying the costs of the benefits." From the viewpoint of the community as a whole, a direct employee contribution would "make employees more responsible in their demands for higher benefits than if the costs fall on them only indirectly." Moreover, "if employees pay a part of the cost they will have a stronger voice in determining the amount of the benefits and the conditions of eligibility."[18] It would seem, therefore, that more adequate benefits demand not only an end to a further weakening of the unemployment tax structure by experience rating, but also the commencement of direct employee contributions.

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[16] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 140.

[17] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 151.

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[18] *Unemployment Insurance*, a report to the Senate Committee on Finance from the Advisory Council on Social Security (Washington, 1948), p. 28.

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Workmen's Compensation, Disability, and Sickness Legislation

Workmen's compensation is designed to assure prompt payment of benefits to injured employees or to the dependents of those killed in industry, regardless of who was at fault in the accident. Disability compensation is designed to provide an income to workers who are incapacitated because of sickness, regardless of the source of the illness. Health insurance is designed to protect the entire population, whether worker or not, against illness by providing for prepaid medical care. This chapter surveys these three types of insurances, and also discusses special assistance plans for the disabled.

The Development of Workmen's Compensation

Workmen's compensation was the first type of social insurance to be developed extensively in the United States by legislation. Before workmen's compensation laws were passed, an injured employee had little recourse. To be sure, under the common law, the employer was required to provide a reasonably safe place for his employees to work. If, however, an employee was injured and the employer did not voluntarily pay some compensation, then the employee had to take the case to court for redress.

Besides the fact that employees rarely had the funds or sufficient legal assistance to pursue a case of this character in court, the employer had certain defenses which made it difficult for the employee to collect damages. In the first place, an employer might plead contributory negligence; that is, the victim was also at fault to some degree. Or the employer might attempt to prove that the real fault was lodged with a fellow worker. This was known as the doctrine of "common employment or fellow service." If these defenses were not available, the employer might plead a third one, the doctrine of "assumption of ordinary trade risk." Under this doctrine the employee was assumed to have knowledge that he was engaged in a dangerous occupation and if he still chose to work in that occupation, he had to assume some of the risks of being injured. And finally, in some states, even if the employer were negligent in providing for the safety of his employees, but the employee knew of this negligence, then the employee assumed the risk of the negligence and could not collect damages if he were injured.[1]

In the latter part of the nineteenth and the early twentieth centuries, the federal government and several states passed legislation designed to modify some of these common law doctrines. It was not, however, until the lawmakers ruled out the question of blame in industrial accidents and concentrated upon providing for benefits to those injured that progress was really made in caring for injuries on the job. That does not mean, of course, that legislators should not concern themselves with safety regulations and other protective measures. What it does mean is that despite precautionary measures, accidents will occur. Then the problem is to provide restitution rather than to fix blame.

THE NATURE OF WORKMEN'S COMPENSATION LAWS

The first workmen's compensation law was passed in New York in 1910. With the passage of a law in Mississippi which became effective January 1, 1949, workmen's compensation legislation has now been enacted by all of the states as well as by Alaska, Hawaii, and Puerto Rico. Federal laws cover civilian government employees, longshoremen and harbor workers, and private employees in the District of Columbia.

The number of employees actually covered by workmen's compensation legislation is, however, less than this summary would appear to indicate. In the first place, some states fail to provide coverage for certain types of accidents or diseases; and agricultural, domestic, and certain other workers are usually excluded from coverage of these laws. Then in 26 of the jurisdictions, workmen's compensation acts are elective rather than compulsory. In such states, employers may refuse to operate under the compensation act if they prefer to risk suit for damages by injured workers. Under 20 of the elective laws, acceptance of the act by employers is presumed unless specific notice of rejection is filed. In 6 states, however, the employers must elect the law in writing, take out insurance, or show notice of acceptance. In some cases, the laws are partially compulsory and partially elective. When employers elect not to come under a compensation act, employees may not be able to obtain compensation unless they sue for damages.[2]

Besides agricultural and domestic workers, compensation laws usually exclude casual employment and employees in charitable and non-profit institutions, and occupations which are declared to be non-hazardous. In addition, railway and maritime employees come under the Federal Employers' Liability Act rather than under workmen's compensation. This has been done at the request of these two employee groups who find that they are able to collect more compensation by court suits than by compensation laws because of the fact the juries are generally sympathetic to them and unsympathetic to railroad and shipping concerns. Finally, in 30 states, Alaska, and Puerto Rico, employers who have less than a specified number of employees, varying from 2 to 15, are excluded from compulsory coverage of compensation legislation.

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[1] H. A. Millis, and R. E. Montgomery, *Labor's Risks and Social Insurance* (New York, McGraw-Hill Book Co., 1938), vol. 2, pp. 190–191.

[2] These and ensuing data are as of October 1, 1948. See Bureau of Labor Standards, *State Workmen's Compensation Laws* (Washington, U. S. Department of Labor, 1948).

Compensation laws are limited, not only as to persons and employers included, but also as to injuries covered. For example, some states exclude coverage if the injury is due to the employee's intoxication, willful misconduct, and gross negligence. In addition, only 39 states, Alaska, the District of Columbia, Hawaii, and Puerto Rico, and the federal legislation compensate employees for occupational diseases.

Nature of Benefits

Most of the acts provide compensation based upon a percentage of the worker's wage up to a specified maximum. A few states have, however, provided lump sums for specific types of disability, and other states vary the payments with the worker's marital status and number of dependents. The periods during which the compensation is paid vary tremendously, and the maximum weekly payments range from $15 to $40. The higher the worker's wage, the less does compensation approximate his earnings.

Death benefits also vary considerably. In 7 states, the District of Columbia and under the federal acts, payments are made to the widow for life or until remarriage, and to children until they reach a specified age. In 33 states, death benefits are limited to payments for periods ranging from 260 to 600 weeks, but some of these states continue to pay to children until they reach a specified age. Massachusetts pays the widow during periods when she is not in fact self-supporting. Oklahoma pays no death benefits and Mississippi pays an immediate sum of $100 to the widow in addition to death benefits. Seven states, Alaska, Puerto Rico, and the District of Columbia limit the maximum amount but not the number of weeks during which compensation is payable. Death benefits are usually based upon a percentage of the average weekly wage of the deceased workman, but Alaska pays a lump sum and 4 states pay a flat pension. In some states, compensation varies with conjugal status and number of children.

Eighteen states, the District of Columbia, and the federal acts make total permanent disability payments for life. In the other states, the payments are limited from 260 to 1000 weeks, and from $5200 to $12,000.

Payments vary in some states also depending upon the number of dependents.

Most compensation laws provide payments for permanent partial disability. Two categories of such injuries are generally recognized, scheduled and non-scheduled. The former includes specific injuries such as the loss of use of an arm or leg; the latter includes more general injuries, such as an injury to the head or back. Most states provide specific payments for scheduled injuries. In 33 states, 3 territories, and the District of Columbia, the compensation for permanent disability is in addition to ordinary compensation. In the other 15 jurisdictions, payments for scheduled injuries are exclusive. The period of compensation in specified injuries varies tremendously. For example, for the loss of an arm at the shoulder, several states pay compensation for only 200 weeks, whereas Wisconsin pays compensation for 500 weeks. Payments for non-scheduled injuries are generally related to the loss of earning power, and in many cases, exceed payments for scheduled injuries. In 10 states and Alaska, persons who are compensated for temporary total disability receive additional benefits for dependent children.

In all the compensation acts, medical aid is required to be furnished to the injured employees. In addition, 44 acts require the employer to furnish artificial limbs and other necessary appliances.

Before any payments are made, nearly all states require a waiting period of one week after the injury. Medical benefits begin immediately, however, and compensation may be retroactive to the date of injury.

ADMINISTRATION

To make certain that benefit payments will be paid when due, the states require that the covered employer shall obtain insurance or shall give proof of his qualifications to carry his own risk, which is known as self-insurance. In most of the states the employer is permitted to insure with private insurance companies. State insurance systems exist in 18 states and Puerto Rico. In 7 of these states and in Puerto Rico the system is called "exclusive" because employers are required to insure their risks in the state fund. Competitive state funds exist in 11 states, where employers may choose whether they will insure their risks in the state fund, or with private insurance companies, or qualify as "self-insurers" with the privilege of carrying their own risks.

In most states, a specific agency has been established to administer the act. In 5 states, however, court procedure remains and in New Hampshire there is a combination of agencies in court administration. In states where the law is administered by commission or board, the state agency usually has exclusive jurisdiction over the determination of facts with appeals to the courts limited to questions of law. In a few states, however, the courts can consider the issues anew.

SECOND INJURY AND SPECIAL PROVISIONS

A second injury to an employee who has already sustained an injury involving the loss of a limb, for example, may cause that employee to be totally disabled, and thus be eligible for total disability. All compensation laws, except those of Louisiana and the Federal Civil Employee Act, contain provisions regarding payment of compensation in such cases. Some of these provisions limit the amount of claim to the last injury sustained, regardless of the actual disability resulting from the combined injuries. Under the more advanced laws, however, which exist in 40 states, 3 territories, the District of Columbia, and the Federal Longshoremen's Act, payment is made for the actual disability resulting from the combined injuries. If the payments for the combined injuries were charged to the employer, handicapped workers would have increasing difficulties in securing employment. Hence, these jurisdictions have established "second injury funds." Where states have second injury funds, the employer is liable only for the compensation resulting from the second injury. The employee, however, receives payments based on the disability resulting from combined injuries. The difference is paid out of the state or territory's second injury fund, which is financed either by special appropriations or by assessments or taxes on employers or insurance carriers.

Because workmen's compensation is almost wholly a state matter, jurisdictional problems arise when an employee employed by a company located in one state is injured in another. In some cases, he is covered by the state where he is hired, in some where he is injured and in many cases the jurisdiction is in doubt.

All the compensation laws cover legally employed minors. Seventeen of the acts provide additional compensation in the case of injury to minors who are illegally employed. In 25 states, Alaska, the District of Columbia, Hawaii, and under the Longshoremen's and Harbor Workers' Act, compensation is paid to minors illegally employed on the same basis as if they were legally employed. Seven states fail to cover minors illegally employed.

Of the 17 laws which provide extra compensation in the case of injury to illegally employed minors, 13 require the payment of double compensation in such cases, while one other law, that of Wisconsin, requires double or treble compensation depending upon the type of violation. Compensation in Wisconsin is doubled in case of minors injured while employed in violation of the work-permit provisions of the child-labor law, and tripled in case of minors employed in violation of the minimum-age provisions or in an occupation for which the Industrial Commission has ordered that no permit shall be issued. In Illinois and Missouri compensation is increased 50 per cent and in Pennsylvania 10 per cent.

FINANCING

In 1947, estimated expenditures of workmen's compensation were 460 million dollars, including 330 millions paid in compensation and 130 million in medical benefits.[3] Unlike the other social insurances, the funds for workmen's compensation are not provided from specific taxes levied upon either worker or employer or both. "There is no central public fund from which compensation is payable to eligible workers. Instead, the worker's compensation claim is against his employer. To insure payment, employers are required to obtain insurance or give proof of ability to carry their own risk (self-insurance). Workers typically make no contribution."[4]

Workmen's Compensation—Some Final Considerations

A careful scholar of the social insurances has pointed out that workmen's compensation "bears the scars of the fact that it was a pioneer social insurance program. . . . Restricted coverage, limitation of risks recognized . . . dollar limitations to amounts payable, the presence of private insurance techniques and self-insurance—all stem from the early and understandable desire to proceed with caution and to hedge the program with various safeguards designed to secure public acceptance and to allay misgivings on the part of the employers."[5]

Undoubtedly, workmen's compensation is inadequate in the three essentials of coverage, benefits, and administration. The large number of excluded categories, the failure to make provision for all occupational diseases and the number of laws which are elective reduce the coverage of this legislation.

The complicated benefit system is very inadequate. In 1940, no jurisdiction provided benefits that averaged 50 per cent of wages lost for all classes of injuries. Since then, increases in benefits have not kept pace with the increased cost of living.[6]

Administration of workmen's compensation is perhaps the weakest phase of this type of social insurance. "In particular, the permission to 'self-insure' and even to insure through private companies has, especially in periods of depression such as the 1930's, not infrequently denied compensation to injured workers because some insurance companies and private firms carrying their own risks have become insolvent."[7] This method of financing also tends to reduce coverage because insurance companies have a financial interest in reducing benefits. Moreover, since the individual has to secure his own benefits, he of necessity becomes involved in litigation and lawyers' fees, which are substantial, although usually regulated, and often loses benefits because of ignorance of his rights. Finally, jurisdictional disputes between states result in needless complications and delay of benefit payments on many occasions.

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[3] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 204.

[4] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 203.

[5] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 186.

[6] See A. H. Reede, *Adequacy of Workmen's Compensation* (Cambridge, Harvard University Press, 1948), for a comprehensive survey of this and other phases of workmen's compensation.

Disability Insurance

Disability insurance because of temporary illness not arising out of a worker's employment is a relatively new development in the United States. By mid-1949, only Rhode Island, California, New York, New Jersey, and Washington had adopted such laws, in addition to provisions in the federal railway social security system. Interest in this type of legislation is increasing, however, especially as a result of the 1946 amendment to the Social Security Act "whereby states were permitted to withdraw employee contributions deposited in state accounts in the Unemployment Trust Fund to pay temporary disability benefits, a permission which affected nine states."[8]

In addition to the states which have adopted disability legislation, five states provide for the continued payment of unemployment insurance during periods of sickness.[9]

The disability insurance laws are of two distinct types. One type, as represented by the Rhode Island program, is similar to unemployment insurance

> in that there is a single system operated by the state, which collects all contributions and pays all benefits. The rights of covered workers are therefore, identical irrespective of their employers. In California, however, features characteristic of workmen's compensation have been adopted. Employers are permitted, subject to certain conditions, to set up their own schemes and to finance them through private insurance or to self-insure. Both eligibility conditions and benefits, therefore,

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[7] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 205.

[8] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 210.

[9] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 210. These states are Maryland, Montana, and Nevada since 1945; and Idaho and Tennessee since 1947.

> depend upon whether a worker is employed by a firm which has exercised this option or whether he is directly covered by the state system.[10]

The New Jersey and Washington laws are similar to that of California. The New York law is actually an extension of some of the least desirable features of workmen's compensation, as it provides for exclusive private insurance and administration by the State Workmen's Compensation Board. The railway system is similar to the Rhode Island plan in that it is integrated into the Railroad Unemployment Insurance Act.

The disability laws generally follow the unemployment insurance system in regard to eligibility requirements and waiting periods. Temporary disability is defined in general to mean physical or mental illness incapacitating a person so that he cannot perform his work. The average weekly payment in Rhode Island up to late 1947 was $16.73; California has a minimum benefit of $10 and a maximum of $25. The disability insurance laws base payments on percentages of income. Most laws limit disability payments to those who do not receive workmen's compensation, but Rhode Island permits receipt of both up to a maximum of 90 per cent of a worker's weekly wage.

Except in New York where administration is in the hands of the Workmen's Compensation Board, disability insurance is administered by the appropriate unemployment compensation agency. The latter arrangement is advantageous because it facilitates use of unemployment insurance records. Where private insurance is permitted, however, some of the advantages of this centralization is lost.

The costs of disability insurance are met in various ways. In Rhode Island and California, taxes on employee payrolls of 1 per cent, formerly used for unemployment compensation, pay for the plans. Under the railroad plan payments are made out of the railroad unemployment insurance fund financed by employer taxes with no additional contributions for temporary disability insurance. New Jersey provides for employee contributions of 0.75 per cent of the 1 per cent tax of payroll formerly paid for unemployment compensation where covered by state plan. Where covered by private plan, workers have the unemployment tax reduced from 1 to 0.25 per cent, and employers contribute a payroll tax of 0.25 per cent, modified after July 1, 1951 by experience ratings. The New York law, which went into effect on January 1, 1950, provides for employers and employees to split contributions of $\frac{2}{10}$ of 1 per cent of payroll with a maximum contribution of 12 cents per week per employee up to July 1, 1950. Thereafter, employees contribute 0.5 per cent of wages up to 30 cents per week; employers pay any remaining costs. Washington taxes employees 1 per cent on the first $3000 of annual wages to cover costs, but permits private plans and private financing if specified conditions are met.

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[10] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), p. 210.

The fact that the worker makes a direct contribution to the financing of disability insurance is yet another reason why it is questionable public policy to permit the employer to choose the method of insurance coverage rather than to have an exclusive state fund. Moreover, under the "competitive" arrangements of New Jersey, private insurance secures the preferable business, and the state is forced to cover plants with high disability risks—for example, plants in which the female labor force is disproportionately high, since women employees generally lose more work because of sickness than do men. California attempts to protect the state fund by providing that the operation of private plans may not result in an adverse selection for the state fund, and uses its "female component" as one of the tests. In general, the introduction of a third party (the profit-making insurance company) into the administration of disability insurance thus has all the disadvantages, plus some additional ones, that this arrangement has under workmen's compensation.[11]

Disability Assistance

Besides the disability insurance programs, there are two assistance programs for the disabled in the United States. One, disability assistance for the totally and permanently disabled, exists only in Wisconsin. The other, aid to the blind, is the third assistance program which is included in the Social Security Act of 1935, the others being old age assistance and aid to dependent children, which were described in Chapter 24.

WISCONSIN'S DISABILITY ASSISTANCE

Disability assistance has been in operation in Wisconsin only since 1945. It is available to persons who are found by medical decision to be totally and permanently disabled and to require constant care. To qualify, a person must be a resident of the state continuously for one year prior to application, an American citizen between 17 and 64 years of age, without relatives able to bear the cost of care, and in residence outside of a public institution. Ownership of a home of reasonable value and $1000 in liquid assets does not disqualify an applicant.[12]

The maximum grant under Wisconsin's disability law is $80 per month, and the average grant as of February 1948 was $57.83. Approximately 500 persons were then receiving benefits under the program, which is financed on a joint state-county basis. The counties administer the program under general state guidance.[13]

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[11] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 220–223.

[12] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 295–296.

AID TO THE BLIND

Aid to the blind under the Social Security Act of 1935 follows closely the other two assistance programs of this act, especially old age assistance. The program operates on a grant to the states basis, with the states required to meet certain specifications to be eligible for the grants. In 1948, all jurisdictions except Alaska were operating aid to the blind programs, although 3 states ran their own programs without federal assistance, and 2 states had additional plans running concurrent to the federal one.

Since October 1948, federal aid to the blind has been on the basis of grants equal to three-fourths of the first $20 per recipient multiplied by the number of blind persons assisted, plus one-half of the remaining expenditure, not exceeding $50 per person. In addition, the federal government pays one-half of the administrative costs.

To be eligible, states must not impose residence restrictions which exclude persons who have resided in the state for 5 of the 9 years immediately preceding the application; states must not exclude any otherwise eligible American citizens; they must take income and resources into account in considering need; and they must not give federal payments to persons living in public institutions. Most states follow these rules, with some liberal variations, but some states also impose other requirements, such as prohibitions on panhandling and requirements that no blind person can receive aid if he refuses medical attention which might improve his condition. As in the other aid programs, the definition of need is a state matter.[14]

In June 1948, 79,153 persons were receiving aid to the blind, and 62,085 of these were included in plans receiving federal aid. The average monthly payment under the federal participating plans was $41.18, the variation was from $20.26 in South Carolina to $72.56 in California.[15]

Health Insurance

Workmen's compensation and disability insurance, except in so far as the former pays medical costs, are insurances directed primarily against loss of income. Health insurance goes further. It attempts to provide prepaid medical care to the population regardless of the effect of illness upon income, and regardless of whether the person in need of medical care is the family breadwinner. The most comprehensive health insurance programs in 1949 were operating in Great Britain and New Zealand. Neither the federal government nor any of the states had by then adopted a health insurance program.

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[13] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 295–296; and J. W. Mannering, "Wisconsin's Aid for Physically Disabled," *Public Welfare* (July 1948), pp. 151 ff.

[14] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 295–296.

[15] Eveline M. Burns, *The American Social Security System* (Boston, Houghton Mifflin Company, 1949), pp. 334–335.

Despite the absence of health insurance in the American scene, the need for prepaid medical care has long been recognized. A majority of American families cannot afford a serious illness. Medical outlays have been estimated at approximately 4 per cent of the national income.[16] Moreover, "An unlucky sixth of our people, . . . pays in one year half the total sickness bills paid by everybody in that year. No one can tell in advance whether his family, during the next year, will be in the lucky half, the moderately lucky third, or the unlucky sixth."[17]

Sickness is also likely to fall heavily upon the lowest income groups, because they are most exposed to illness by reason of poor housing, poor dietary habits, and ignorance of proper preventive measures. Even a family with an income of $5000 per year (which is approximately twice the median family spending unit income for the high income year of 1946[18]) is dealt a staggering financial blow by an illness which requires extensive surgical or specialist treatment, hospitalization, and nursing or convalescent care. Such an illness can wipe out the life savings of the $5000-income family, or throw it deep into debt. No wonder that sickness is a primary cause for applications for charity among lower income groups.

Another result of the high costs of medical care is that thousands of persons do without needed medical assistance, harming not only themselves but society as well. For persons in need of medical care are often either disease carriers or less efficient employees. They are more likely to become unemployable and a burden to society. The old adage that an ounce of prevention is worth a pound of cure is applicable. Easy access to medical diagnosis should therefore not be dependent upon income.[19]

THE TRUMAN HEALTH BILL

As a result of the growing demand for federal health insurance, a number of bills have been introduced into Congress in the last few years. One of the most comprehensive was introduced in the House and Senate on April 25, 1949. This bill, which has the backing of the Truman Administration, attempts to establish the principle that medical services should be paid for in proportion to income and that medical benefits should be received as a right, and not as charity. The bill specifically guarantees the patient freedom in choosing his own doctor and the doctor freedom in refusing or accepting his own patients. Administration of the law would be decentralized. Besides attempting to assure enough medical services to meet the country's needs and to provide a means of making them available to everyone, the bill provides for a broad expansion of hospital and medical facilities and for aid to farmers' health coöperatives.

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[16] H. A. Millis and R. E. Montgomery, *Labor's Risks and Social Insurance* (New York, McGraw-Hill Book Company, 1938), vol. 2, p. 237.

[17] Michael Davis, *Health Security and the American Public* (1936), p. 3.

[18] See Chapter 3, Table 10.

[19] For a comprehensive statement indicating the need of America for far more medical care, see Oscar R. Ewing, *The Nation's Health: A Ten Year Program; Report to the President* (Washington, Federal Security Agency, 1948). For a contradictory view, see G. S. Backman and L. S. Meriam, *The Issue of Compulsory Health Insurance* (Washington, Brookings Institution, 1948).

The first half of the bill is devoted to measures for the expansion for medical facilities through grants in aid to the states. It authorizes federal assistance for hospital construction, medical education, local public health services, and maternal and child health activities. In addition it provides grants, loans, and other incentives to promote the better distribution of medical facilities. This section of the bill is essentially noncontroversial and some of its provisions are already on the statute books in a more limited form.

Much more controversial is the second part of the bill which would attempt to make all medical facilities available to approximately 85 per cent of the population through a national system of contributory health insurance. A national fund known as the "Personal Health Services Account" would be established and administered by a National Health Insurance Board. Both workers and their employers would contribute 1½ per cent of payroll to the fund, out of which all doctor and hospital bills of workers and their dependents would be paid. In addition, to the employer and employee contributions, the federal government would add up to one-half of 1 per cent of payroll up to 1954 and up to 1 per cent through 1957. The sponsors of the bill estimate that the total income of the health services account would approximate $6,000,000 a year or slightly more than they estimate the nation now spends for medical care.

Payments for doctors and hospitals would be administered by local committees composed of both doctors and laymen in accordance with state plans. These state plans would be required to be approved by the Health Insurance Board on the basis of the general requirements laid down in the bill. If the state did not establish a satisfactory plan, the federal government would administer the law in that state.

Doctors would either be paid on the basis of service or be granted a salary or a combination of both, with the particular method and the schedule of fees to be determined largely by the doctors themselves. Likewise specialists would be paid either according to one of these methods or on a case basis with their professional attainments taken into consideration. The bill specifies that the amounts to be paid under the various methods, as determined by the doctors and their local agencies, "shall be adequate to provide professional and financial incentives to practitioners to advance in their professions and to practice in localities where their services are most needed, to encourage high standards in the quality of services furnished, to give assistance in their use of opportunities for postgraduate study, and to allow for adequate vacation."

Nation-wide aspects of the health insurance program would be administered by the Health Insurance Board in consultation with a "National Advisory Medical Policy Council." Three members of the 5-man Board, at least 1 of whom would be a Doctor of Medicine, would be appointed by the President. The other 2 would be the Surgeon General of the Public Health Service and the Commissioner for Social Security. The Board would function under the "direction and supervision" of the Federal Security Administrator. The Advisory Council would consist of the chairman of the Board and 16 members appointed by the Federal Security Administrator. At least half of the 16 appointed members would be "outstanding professional men," and the other half representatives of the beneficiaries.

The principle opposition to the Truman health insurance program comes from the American Medical Association. The AMA feels that the Truman program will be disadvantageous to the medical profession and argues that voluntary prepayment plans would be a more practical solution for the need for prepayment of medical care. The stand of the AMA in favor of the voluntary prepayment plans represents a change in its policy which, prior to 1939, opposed voluntary as well as governmental plans. Successful prosecution of the AMA and its Washington, D. C., local association, under the Sherman Antitrust Act, for refusing to treat patients under a voluntary prepayment plan, was principally responsible for the AMA's new position on voluntary plans.[20]

> Within the last decade there has been a rapid development of voluntary health insurance in the United States. As of January 1, 1947 approximately 39,700,000 people—more than one out of every four persons in the population—were enrolled in organizations providing hospital service on a prepayment basis or had insurance protection against the cost of this service. Of these about 16,100,000 were also covered for physicians' services in surgical and obstetrical cases and of the latter number about 5,000,000 were also covered for physicians' services for medical cases in the hospital. About 3,700,000 persons were covered for office and home

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[20] The AMA or its local affiliates have been indicted in a number of localities for interfering with medical care on voluntary programs other than those sponsored by AMA itself. This raises the question of how much the AMA really favors voluntary prepaid health insurance.

> services, most, though not all of whom, were covered for the other services.[21]

The leading type of existing prepayment plans is the Blue Cross Hospital service.

> The distinguishing features of these plans are that they are non-profit, that the subscriber has free choice among the hospitals of the area, that they are sponsored or endorsed by the hospitals of the area, that they operate through contracts with the member hospitals which in return for specified payments agree to provide specified services to subscribers, and finally that the plans meet the standards of and are approved by the American Hospital Association. The Blue Cross plan movement, from its beginning in 1932, has grown with great rapidity. On January 1, 1947, there were 24,250,000 persons enrolled in the 81 plans in the United States.[22]

Other prepayment plans include hospital service plans sponsored by the medical societies, which, as of January 1, 1947, had 3,832,000 enrolled members; hospital, surgical, and medical insurance sold by commercial insurance companies which, as of January 1, 1947, had 9,300,000 members; and various other industrial services, union, and private group plans which included approximately 3,000,000 besides the 4,000,000 covered by union welfare plans.[23]

These private plans, however, fail in three ways to meet some of the basic medical costs of the population. In the first place, their coverage is not sufficiently inclusive. Usually, it is limited to hospitalization and surgical care, leaving the patient the expensive items of dentistry, nursing, convalescent, and ordinary physician care. In the second place, since these programs are not compulsory, they do not cover the poorest sector of the population who do not feel that they can afford them, or the more optimistic groups who fail to forsee possible disaster from illness. The failure to include the poorest sector of population is the most important defect of voluntary programs. Finally, many of these plans depend upon a person's residence, place of work, or union membership. If an individual's status in any of these situations changes, he stands to lose his protection.

It is likely, therefore, that the promotion of federal health insurance will continue despite the opposition of the medical profession. In the meantime, it will be necessary for the federal government to show conclusively that there are sufficient doctors and hospitals to meet the needs of a medical program or, if not, to train them. Continued discussions should also shed more light on the cost of a health insurance program, and on such problems as the need to prevent duplication of benefits for health insurance and for workmen's compensation; to handle the problem of malingering when it arises; and to work out a relationship which will bring doctors and patients into a program on a coöperative basis for the good of all.

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[21] Louis Reed, *Blue Cross and Medical Service Plans* (Washington, Federal Security Agency, 1947), p. 1.

[22] Louis Reed, *Blue Cross and Medical Service Plans* (Washington, Federal Security Agency, 1947), p. 1.

[23] Louis Reed, *Blue Cross and Medical Service Plans* (Washington, Federal Security Agency, 1947), pp. 1–5.

Part VI

LABOR RELATIONS AND PUBLIC POLICY

27

Labor and the Courts

Public policy is determined in two general ways: by common law and by statutory law. Common law is based upon the customs of the land as reflected in the accumulated decisions of the judiciary. Statutory law results from enactments of the Congress and state legislatures. Statutes usually represent departures from the common law or changes in customs which the elected representatives of the people deem desirable. The history of public policy toward labor relations in the United States has been marked in large measure by statutory enactments aimed first at overturning judicial interpretations of the common law, and later at revising judicial interpretations of legislative enactments. Prior to 1940, the apparent desire of the Congress was to liberalize these judicial interpretations; since 1940, much Congressional action in the labor field has been designed to overturn judicial interpretations which the legislators have regarded as too favorable to labor.[1]

Labor and the Courts in Early America

THE CONSPIRACY CASES

Common law dates back to medieval England when employer-employee relationships were truly that of master and servant. In that era, the serf was bound to the land and the rules of guilds governed the artisans. When a shortage of labor occurred, as for example, after the Black Death plague in the fourteenth century, laws were passed so that one employer who enticed another's worker away by offers of higher wages would be heavily punished. The legal enforcement machinery was in the hands of the employing class, and both law and the judiciary were decidedly unfriendly to any efforts of workers to raise their standards above what was deemed to be their "correct station in life."

The rise of modern factory production found the law still concerned with preserving an archaic "master-servant" relationship, but workers turning to organization to correct the ills suffered under emerging capitalism. Following their notions of ethics and economics, English courts (and later Parliament) outlawed labor combinations which exerted pressure to increase wages or to secure the closed shop as a means toward that end. In the famous Philadelphia Cordwainers case of 1806,[2] and in numerous others during the next 30 years, American state courts held that unions represented an illegal conspiracy against the public and employers. On the other hand, the Supreme Court of Pennsylvania found that a combination of employers to lower wages would also be unlawful, but a combination of employers to resist the attempts of workers combining to raise wages would be lawful.[3]

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[1] For a more complete discussion of some of these issues, see C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946); and H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), pp. 486–685.

Rulings of this and similar nature caused considerable unrest among working groups in early America. Nevertheless, until 1842, the courts continued to move in the direction of completely outlawing all union activity. Then, in the case of Commonwealth v. Hunt,[4] the Supreme Court of Massachusetts decided that a strike in support of a closed shop was not, *per se,* illegal, and that unless it could also be shown that the workers' objectives were bad, the conspiracy doctrine did not apply. Although the conspiracy doctrine continued to be utilized occasionally for some years to break up strikes, the decision in Commonwealth v. Hunt dealt it a blow from which it never recovered.

After the decision in the Commonwealth v. Hunt case, the courts tended to judge the legality of union activity on the basis of "motive" and "intent." Because the motives or intentions of working men engaging in union activity are mixed and difficult to ascertain, determinations of the legality of union activity in terms of its possible objectives are subject to as many interpretations as there are judges. One judge, for example, might find that all strikes are malicious because the object is to bring economic pressure upon the employer in violation of his property rights; on the other hand, an equally learned judge might decide that the purpose of the strike was merely to improve the economic standards of the working people and that any harm which might accrue to the employer was incidental and unintentional. The difficulties and impasses which resulted from the attempts to probe into motive and intent led many courts to abandon the attempt to determine cases on that basis and, instead, to place their emphasis on the means used.

Even the means test, however, does not take the uncertainty out of judicial determinations.

> Combination and persuasion are lawful, but such means or methods as violence, force, threats, coercion, and intimidation are unlawful. The

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[2] Cited in J. R. Commons *et al.*, *Documentary History of American Industrial Society* (Cleveland, A. H. Clark Co., 1910–1911),vol. 3, pp. 59–236.

[3] *Commonwealth ex. rel. Chew v. Carlisle,* Brightly, 36 Pa. N. P. (1821).

[4] *Commonwealth v. Hunt,* 4 Metcalf 111 Mass. (1942).

> content of these terms, as applied to the field of labor relations, is anything but specific, and more than once, without doubt, courts have looked—consciously or subconsciously—to the purpose or end in order to decide whether a particular act should be regarded as threatening or coercive. "The lawfulness of threats," Justice Holmes once observed, "depends on what you threaten." Drawing the line of demarcation between persuasion and intimidation and reading specific content into the words "coercion" and "intimidation" are again matters of judicial judgment, and in consequence the law has not been made much clearer or more uniform as between one jurisdiction and another by the tendency to look to the means used by, rather than the purposes of, labor combinations.[5]

A final theory utilized by the courts in labor cases in the earliest days was the restraint of trade doctrine. This doctrine assumed much more importance later with the passage of the Sherman Antitrust Act, as will be discussed below. The restraint of trade doctrine, however, existed also in common law. In general, the common law doctrine was that everyone should have equal access to the market, and that when two or more persons combined to block access to the market and thereby inflict upon the public the hardships involved in a diminution of the number of sellers, a conspiracy in restraint of trade occurred. All restraints, whether by labor or industry, were not considered illegal but were subject to varying tests by courts as to their reasonableness, the extent of coercion, if any, the effect of the restraint upon the volume of business, and the effect upon access to the market.

The Injunction, Anti-trust Laws, and the Right to Organize

THE INJUNCTION

As noted in Chapter 2, the injunction is a legal technique developed in equity courts to provide relief against continuing injury where recovery in the form of monetary damages does not suffice. The application of injunctions to labor disputes developed rapidly after the Debs case of 1895.[6] In that case, Eugene Debs, leader of the Pullman strike,[7] was enjoined by an order obtained by the United States government from continuing a boycott on Pullman cars which, the government alleged, interfered with interstate commerce and the transportation of mail. Although injunctions had been used in labor disputes prior to this time, this case focused nation-wide attention on the injunction technique as a weapon against union organizational activities. Thereafter, the use of the injunction became relatively widespread. The general ground of these injunctions was that union organizational activities interfered with the employer's right to a free and open market, and were therefore illegal restraints of trade.

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[5] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 506.

[6] *In re Debs*, 158 U. S. 654 (1895).

[7] See Chapter 2, p. 28 for further details of this strike.

The effectiveness of the injunction was based upon the speed with which it could be secured and the manner in which it could be applied. An employer could go into court and secure an *ex parte* injunction by alleging that grave and irreparable damage would occur if the injunction were not granted. The injunction would completely tie up union organizational activities, and at the same time leave the employer free to discharge union members and otherwise act to destroy union organization in his plant before the union could be heard in court. By the time the case was brought to a hearing to determine whether the injunction should be dissolved or made permanent, the employer could often whip the union. Moreover, if union officials violated any part of the injunction, they could be held in contempt of court and fined or jailed by the court, without trial by jury. This was true whether or not the injunction was made permanent.

Some idea of the manner in which an injunction could tie up union activities may be gained by studying the following paragraphs from the injunction granted against the unions in the 1922 nation-wide strike of the railway shopmen. The order forbade workers from

> inducing or attempting to induce by the use of threats, violent or abusive language, opprobrious epithets, physical violence or threats thereof, intimidations, display of numbers or force, jeers, entreaties, argument, persuasion, rewards, or otherwise, any person or persons to abandon the employment of said railway companies or any of them, or to refrain from entering such employment . . .
>
> in any manner by letters, printed or other circulars, telegrams, telephones, word of mouth, oral persuasion, or suggestion, or through interviews to be published in newspapers or otherwise in any manner whatsoever, encourage, direct or command any person whether a member of any or either of said labor organizations or associations defendants herein, or otherwise, to abandon the employment of said railway companies, or any of them, or to refrain from entering the service of said railway companies or either of them;
>
> [Directed against the officers of the unions] issuing any instructions, requests, public statements or suggestions in any way to any defendant herein or to any official or members of any said labor organizations constituting the said Federated Shop Crafts, or to any official or member of any system federation thereof with reference to their conduct or the acts they shall perform subsequent to the abandonment of the employment of said railway companies by the members of the said Federated Shop Crafts, or for the purpose of or to induce any such officials or members or any other persons whomsoever to do or say anything for the purpose or intended or calculated to cause any employee of said railway companies, or any of them, to abandon the employment thereof, or to cause any persons to refrain from entering the employment thereof to

> perform duties in aid of the movement and transportation of passengers and property in interstate commerce and the carriage of the mails;
>
> using, causing, or consenting to the use of any of the funds or monies of said labor organizations in aid of or to promote or encourage the doing of any of the matters or things hereinbefore complained of.[8]

The sweeping scope of this injunction is further indicated by the fact that a barber who put a sign in his shop stating that "scabs" would not be served was held in contempt of court!

The Anti-trust Laws

In 1890, Congress passed the Sherman Anti-Trust Act in an attempt to stem large-scale business concentration. Historians disagree as to whether the framers of this law intended it to apply to union activities as well as to business restraints. Whatever the intention of the framers, however, the Supreme Court in 1908, in the famous Danbury Hatters case,[9] ruled that a nation-wide union boycott against a manufacturing firm was "a combination 'in restraint of trade or commerce among the several states,' in the sense in which those words are used in the [Sherman] Act." The Supreme Court, moreover, found that the union and its members were liable for the triple damages provided as penalties in the Sherman Act.

The decision of the Supreme Court in the Danbury Hatters and subsequent similar cases intensified the drive of the American Federation of Labor for a law which would remove union activities from the purview of the Sherman Law and which would also limit the right of the judiciary to grant injunctions in labor cases. The AFL thought that it had won both these objectives when Congress enacted the Clayton Act in 1914. Section 6 of the Clayton Act stated that labor unions are not to be considered a commodity or article of commerce and therefore that their activities are not censurable under the anti-trust laws when such activities are legitimately directed. Section 20 of the Clayton Act further provided that union activities were not enjoinable if they are carried on for a lawful purpose, and in conjunction with a controversy between an employer and employee.

Unfortunately for labor, the Clayton Act was poorly drawn and therefore subject to different interpretations. In what appears to be a negation of Congressional intent, the Supreme Court held the Clayton Act to be virtually a reaffirmation of previous law.[10] Under this interpretation, secondary boycotts, strikes for any "wrongful" purposes, and possibly even picketing were declared enjoinable.

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[8] *U. S. v. Railway Employees' Dept.*, 238 Fed. 479 (1922).

[9] *Loewe v. Lawlor*, 208 U. S. 274 (1908).

[10] *American Steel Foundries v. Tri-City Trades Council*, 257 U. S. 184 (1921).

YELLOW-DOG CONTRACTS

Contracts which employers required workers to sign, stating that as a condition of employment the worker agrees not to join a union, were termed "yellow-dog" contracts by unionists at an early date and have since been known by that appellation.

It was not until 1917 that the Supreme Court passed on the enforceability of such contracts via the injunctive process. Unionists maintained that because workers had no choice but to sign such agreements, they were without force or effect. The majority of state courts rejected this view, holding instead that mere inequality of bargaining power did not preclude enforcement of contracts. The New York courts, however, accepted labor's point of view.

In actual fact, of course, employers made no real attempt to enforce such contracts against the individual, but rather saw in the device a means of preventing union organizational activities. If the yellow-dog contracts were legal, then it followed that attempts by union-organizers to induce employees to violate them were enjoinable. By 1917, organized labor had already secured the passage of the Clayton Act and had high hopes that the Supreme Court would accept its view of the coercive nature of the yellow-dog contracts. The Supreme Court, however, completely supported the enforceability of yellow-dog contracts.[11] It ruled that a court of equity could issue an injunction restraining attempts to organize employees bound by contracts with their employer not to join a labor union. As a result of this ruling, the use of the yellow-dog contract spread rapidly. Organized labor found the combination of the injunctions, the anti-trust laws, and the yellow-dog contract to be an almost insurmountable legal bar.

OTHER LEGAL IMPEDIMENTS TO UNIONIZATION

Under the common law, an employer or employers are free to refuse employment to workers because of union activities. Employers thus may maintain what might be called an "anti-union closed shop." In furtherance of anti-union activities, employers are, in the absence of legislation, free to engage in blacklisting of union members and to utilize labor spies to ferret out union sympathizers. The common law does provide that a worker may not be hounded or libeled in order to prevent him from securing or maintaining employment, but this protection proved of little value because the employer also has the right to advise other employers that he discharged a man because of his union or "radical" sympathies or activities.[12]

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[11] *Hitchman Coal & Coke Co. v. Mitchell*, 245 U. S. 229 (1917).

[12] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 594.

More than one-half of the states now have laws which outlaw the blacklist and 6 states require employers, upon demand, to give discharged employees a truthful statement of the reasons for discharge.[13] These state laws against blacklisting, however, have not been easily enforced, although in at least one case, such a law was used by workers to secure an injunction against the use of the blacklist.[14] It was almost impossible to prevent one employer from telling another over the telephone that Jones, Smith, and Brown were "radical unionists," so that when these three applied for employment to the second employer, they were refused a job on the grounds that "no vacancies were available." It was not until the passage of the National Labor Relations Act in 1935 that effective protection against blacklisting was finally achieved.

Protection of the Right to Organize

Because of the antagonistic attitude of the courts, labor unions attempted at an early date to secure legislative modification of judicial designs. Between 1890 and 1914, no less than 14 states enacted legislation making it a misdemeanor or otherwise unlawful for employers (a) to exact yellow-dog contracts from their employees; and (b) to interfere with the right of the employees to join or otherwise belong to a legitimate union. In addition, in 1898, Congress passed the Erdman Act which contains similar provisions for the benefit of operating employees of the railroads.

The courts, however, declined to view with favor this legislation which contained the principles of the Wagner Act 40 years before that law was conceived. The Supreme Court found that both the state laws and the pertinent section of the Erdman Act were unconstitutional because the Fifth and Fourteenth Amendments to the Constitution guarantee freedom of contract as a property right.[15] According to the courts, an employer had a constitutional right to request his employees to sign yellow-dog contracts and to enforce such contracts, and also to discharge his employees because of union activities. In short, the courts held that furthering union activities or even preventing interference therewith was not a sufficient promotion of the general welfare to permit interference with sanctity of contracts, not even if they were yellow-dog contracts. Needless to say, these decisions, coupled with the courts pro-industry interpretations of the enforceability of yellow-dog contracts, and the application of the Sherman Act to union activities, caused unionists to take an extremely jaundiced view of the judiciary, as well as to redouble their efforts to curb judicial interference in labor-management matters.

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[13] H. A. Millis and R. E. Montgomery, *Organized Labor* (New York, McGraw-Hill Book Company, 1945), p. 594.

[14] E. E. Witte, *The Government in Labor Disputes* (New York, McGraw-Hill Book Company, 1932), pp. 212–220.

[15] *Coppage v. Kansas*, 236 U. S. 1 (1915), which nullified the state laws; and *Adair v. United States*, 208 U. S. 161 (1908), which nullified Section 10 of the Erdman Act.

Strikes, Boycotts, and Picketing and the Courts before 1932

Thus far, we have shown that prior to 1932, the courts tended to interpret both the common and statutory law in a manner unfavorable to unionism. The practical import of such interpretations can best be learned by examining the impact of the courts on specific union activities. Because Congress enacted comprehensive legislation in 1932 (the Norris-LaGuardia Act), regulating judicial conduct in labor relations cases, we shall divide this discussion into three main sections: (1) judicial interpretation in the period before 1932; (2) the Norris-LaGuardia Act of 1932; and (3) the judicial interpretation from 1932 to the Taft-Hartley Act of 1947 which amended the Norris-LaGuardia Act in a number of ways.

Strikes and the Objectives of Strikes

After the courts abandoned the theory of conspiracy, they continued to regulate union conduct by looking into the "motives" or "intents" of the conduct. In the case of strikes, this involved an analysis of the purpose or objective of the strike.

It should be emphasized that strikers do not regard themselves as having terminated their employment relationship. They have left their employment temporarily, and in concert, in order to secure more favorable terms. But they regard themselves as having a vested or property right in the job and naturally are not desirous of being replaced by new employees. The courts, however, have not recognized this right to a job until very recently, and even now do not give it heavy weight. Indeed, as the foregoing discussion of the courts and labor has indicated, the judiciary traditionally has thought of property rights almost exclusively in terms of employers' rights to protect physical property.

In judging the legality of strikes by purpose, the Courts have relied on two tests. The first is the legality of an objective.[16] If the purpose of the strike were to force an employer to coöperate in committing an illegal act, the courts, by applying this test, would declare the strike illegal. However, since workers are perfectly free to associate and to leave their jobs, a court declaring a strike illegal could not force the workers to return to their jobs. It could, however, enjoin the union and its leadership from continuing the strike, or aiding it in any way, or it might even force the strike leaders to announce a cessation of the walkout. As many judges have discovered, that still may not induce a return to work.

The second test utilized by courts to test the objectives of strikes has been the "maxim of the common law which tells us that the deliberate commission of harm on another is unlawful unless it is justified."[17] Now this is a highly subjective criterion. For example, prior to 1932, judges frequently found sympathetic strikes unlawful. These are strikes by one group of workers in support of another, such as strikes by plumbers out of sympathy for striking gravediggers. Judges have found no possible justification for inflicting economic loss on the employers of plumbers because of a dispute between the gravediggers and their employers. But on occasions, such sympathetic strikes have resulted in additional pressure for a strike settlement.

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[16] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), pp. 107–108.

Likewise courts have often tended to enjoin strikes aimed at causing the discharge of a foreman or other managerial representative. Such strikes are probably not justifiable since management, like unions, should have the right to select its representatives and agents without coercion. On the other hand, for the courts to arrogate to themselves, in the absence of legislation, the right to pass upon the legality of a strike aimed at removing a foreman is no more appropriate—especially in view of the failure of courts to protect union sympathizers from discriminatory action, and in view of the refusal of the courts to permit Congress or the states to legislate such protection prior to 1935.

The attitude of the courts on strikes against technological change and jurisdictional strikes has been more realistic. Although most courts have indicated that they regard strikes aimed at preventing technological advance as harmful to society, they have recognized the problem that such progress often creates for workers and have not interfered, in the absence of legislative enactment, with the mostly futile attempts to retard technology.

Most persons regard jurisdictional strikes as among the least justifiable action by labor. Such strikes involve contests between unions over which group of workers shall perform a specified piece of work. The building trades are most notorious for jurisdictional strikes, but they also occur in other trades, e.g., amusements, metals, and printing, where organization is on a craft basis. Although jurisdictional strikes generally hurt employers and the public more than they help the participants, the outcome of a jurisdictional strike can determine which group of employees secures work and which is left jobless; and also which union leader adds to his prestige and power and which loses both. Realizing the extent of the jurisdictional strike problem, most courts have declined to enjoin it *per se*. Quite rightly they have regarded jurisdictional strikes as matters for the legislative branch of government to determine if regulation of this activity is in order.

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[17] C. O. Gregory, ***Labor and the Law*** (New York, W. W. Norton and Company, 1946), p. 108.

On the other hand, judicial policy regarding strikes to secure the closed or union shop has been quite different. In spite of the path-breaking Commonwealth v. Hunt case of 1842, which rejected the conspiracy doctrine in connection with strikes for the closed shop, many, if not the majority of state courts, have condemned strikes for this purpose. The reason is that the closed shop is regarded as "monopolistic and attaches a condition to free employment."[18]

That such reason derives from the value judgments of judges is, however, clear. Whatever one thinks of the merits of the closed shop, the place to legislate on such merits is the legislature, not the courts. Moreover, to call the closed shop "monopolistic" is to fail to appreciate the fundamental distinctions between the labor market and the product market which were developed in Chapter 10. And "free employment" does not exist. No one has the "right to work." What one does possess is the right *to look* for work. There are many impediments between the right to look and the end of the quest. If the courts are not willing—and they are not—to outlaw all impediments, there is no equity in declaring one impediment illegal.

All this does not, of course, mean that various abuses of the closed shop should always be free from judicial restraint. A good case can be, and (as we shall examine later) has been, made for judicial interference where the union has a closed shop and, in addition, denies membership to persons on the basis of some discriminatory criterion, or else closes its doors altogether. In this instance, the union can effectively block persons from making a livelihood even though such persons are willing and able to join the union. The impediment to the right to look for a job then becomes a complete or almost complete block to following a particular trade, at least in a given area. A closed union, closed shop situation is thus much more a matter of public concern than a mere closed shop situation. Nevertheless, even where the closed union is involved, public policy might preferably be expressed by statutory enactment of the legislature, rather than through judicial construction of common law which in actual fact involves the judiciary in making the law.

LOCKOUTS

In contrast to the strike where numbers and relationships may under the conspiracy doctrine make a difference, a lockout under common law may be practiced without legal restriction, whether by a single employer or by employers in combination. What one employer may do, all may do. There is, however, one exception to this common law principle, and that is that a lockout in violation of a collective agreement may be enjoined.

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[18] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 115.

On the other hand, an employer who is a member of an association and obligated thereby to coöperate with his fellow employers may be sued if he fails to coöperate in the lockout activities.

BOYCOTTS

Economic pressure by unions can be exerted in other ways than by strikes. One of the most familiar of labor's weapons has always been the boycott. In a certain sense, all strikes are boycotts. For when workers are on strike, they are "boycotting" their employer's employment and urging all others to do likewise. Such a strike would thus qualify as a "primary" boycott—primary because the strikers are exerting pressure directly on the employer on whom they are making their demands.

Generally, however, strikes are not considered as coming within the meaning of boycotts. In public discussions, the term boycott is used almost exclusively to mean "an organized refusal to deal with someone in order to make him change some practice which he follows."[19] Such a boycott may be in the form of a "We do not patronize" list or in other forms of pressure designed to prevent sales of particular products. Or it may be a refusal to handle certain goods.

Examples of such pressures are readily found in everyday union activity. In 1949, the United Automobile Workers asked its members not to use fishing tackle manufactured by a firm which allegedly had locked out members of the United Steelworkers, a sister CIO union. Union building trades men have usually refused to handle materials manufactured under non-union conditions.

Boycotts of these types are not as simple as strikes because they can involve pressure on third parties. For example, if the United Automobile Workers picketed a store which was selling fishing tackle from the aforenoted plant, it would be engaging in a "secondary boycott"—that is, it would be applying pressure on a third party in order to aid the CIO's fight against the manufacturer directly involved in the dispute.

Before 1932, a majority of American courts held secondary boycotts unlawful *per se*—"as if it were in a separate category of tort liability."[20] Other courts, however, recognized that labor had an interest in maintaining standards and therefore had as much right to engage in boycotts as did business. Business's secondary boycotts have rarely been considered illegal as have labor's. Courts which have upheld labor's right to boycott have pointed up the justification in union boycotts of non-union products on the grounds that the distribution of goods produced under non-union conditions will depress standards won by the union.

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[19] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 120.

[20] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 122.

By utilizing the doctrine of justification in secondary boycotts, these courts paved the way for later legislation categorizing secondary boycotts as to purpose. The use of boycotts to cripple rival unions, as developed under the Wagner Act,[21] was later considered in a different category from boycotts designed to protect labor against non-union conditions. And boycotts which resulted from collusion between management and labor for the purpose of keeping goods off the market and therefore prices and wages high have always been held unjustifiable and in violation of the anti-trust laws, both before and after the passage of the Norris-LaGuardia Act. Such a case occurred in New York City in the 1940's where a union and a group of employers combined to prevent electrical materials manufactured outside of New York from entering that city until the courts interfered.[22]

PICKETING

Picketing is the most familiar form of pressure which unions utilize in support of strikes and boycotts. Picketing may be thought of in two ways: It is a form of expression, letting the public and labor supporters know that a controversy exists and giving labor's side of that controversy. It is also a form of pressure intended to dissuade persons from patronizing or entering a place of business.

At first the courts took the view that picketing *per se* was illegal. Later they grudgingly conceded that picketing was legal as long as it was peacefully conducted and did not bar entrance to and exit from the plant, and as long as it did not obstruct traffic on a public thoroughfare. But while the courts conceded the legality of picketing, they also severely regulated it, often limiting the number of pickets permitted, and generally outlawing "stranger picketing"—that is picketing by persons not employees of the plant. The attitude of the courts on stranger picketing was conditioned by their belief that workers had no interest in a labor controversy unless they were employees of the plant itself, a theory which ignores the relations of labor conditions in one plant with that of another.

Those who believed in labor's right to picket freely did not generally support picketing which prevented entrance and exit into a plant, or picketing which obstructed ordinary commerce on a public thoroughfare. They took the view, however, that picketing was a form of expression and hence, if peacefully conducted, was protected by the First Amendment as are other forms of communication. That viewpoint, however, was almost unanimously rejected by the courts prior to 1932. Indeed, the tendency right up to the passage of the Norris-LaGuardia Act was to limit rather than to expand the right of labor to picket in support of its interests.

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[21] See below, pp. 612, 673–675.

[22] See below, p. 612.

The Norris-LaGuardia Act

In 1932, when the membership of the American Federation of Labor was the lowest in 20 years, the AFL achieved its greatest legislative triumph to date. After almost 50 years of sustained effort, the AFL succeeded in making the federal judiciary "neutral" in labor disputes. The law which accomplished this fact was the Norris-LaGuardia Anti-injunction Act, passed by a Democratic controlled House of Representatives, a Republican Senate, and signed by the then Republican President, Herbert Hoover.

The Norris-LaGuardia Act commences with a statement of public policy which affirms the right of workers to engage in collective bargaining through unions of their own choosing. Yellow-dog contracts are declared to be against this public policy and the federal courts are instructed not to enforce such contracts. Then Section 4 of the Act establishes the following rules for the courts:

> No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:
>
> (a) Ceasing or refusing to perform any work or to remain in any relation of employment; . . .
>
> (e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence.
>
> (f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;
>
> (g) Advising or notifying any person of an intention to do any of the acts heretofore specified;
>
> (h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and
>
> (i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified. . . .

In addition, the Act requires employers to enter the court with "clean hands" before requesting an injunction—that is, employers must exert every reasonable effort to settle a dispute through collective bargaining, mediation, and voluntary arbitration, if procedure for the latter methods are available, before requesting judicial interference. And besides thus virtually making it impossible for an employer to secure an injunction in a labor dispute unless fraud or violence are involved, the Norris-La-

Guardia Act defines "labor dispute" in the broadest possible manner so as to preclude judicial constructions, such as occurred in the Clayton Act, which whittled away the effect of the latter law; thus Section 13 of the Norris-LaGuardia Act reads:

> (a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employers; or (3) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined).
>
> (b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.
>
> (c) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

The Norris-LaGuardia Act has since been supplemented by approximately 20 state laws which, with some variations, are modeled upon it.

THE NORRIS-LAGUARDIA ACT AND THE COURTS

With a single piece of legislation, Congress thus repealed a century of judicial interpretation. The net effect of the Norris-LaGuardia Act "was to establish the coercive techniques of labor unions on a par with those of business associations at common law."[23] In other words, Congress created "laissez faire, or economic free enterprise, for organized labor as well as for big business."[24] Henceforth, the courts were not to interfere with strikes, boycotts, and picketing which were conducted peacefully and otherwise within the law. Moreover, by defining "labor dispute" in a broad fashion, Congress ensured labor's right to engage in sympathy strikes, secondary boycotts, stranger picketing, and other activities where non-employees of a concern come to the aid of the concern's employees in labor disputes directly, or by applying pressure upon third parties.

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[23] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 191.

[24] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 192.

Despite the clarity of its language, the Norris-LaGuardia Act might either have been misconstrued or declared unconstitutional by the courts if the attitude of the courts had not altered fundamentally on labor matters by the time litigation arising out of the Act reached the Supreme Court. Between the dates when the Act was passed by Congress and reviewed by the highest court, the New Deal of Franklin D. Roosevelt had intervened, and the thinking of the highest court had been altered. As a result, the Norris-LaGuardia and similar state laws were interpreted as intended by their framers to preclude injunctive relief in peacefully conducted labor disputes.

Reversal of Sherman Act Decisions

The combined effect of the Norris-LaGuardia Act and the liberalized view of labor disputes which the Supreme Court took after 1937 resulted in a revision of precedents on the application of the Sherman Antitrust Act to labor, and on the courts' attitude toward picketing and boycotts. In the Apex case,[25] decided in 1940, the Supreme Court ruled unions were not guilty of violating the Sherman Act even if strikes or boycotts prevented shipments of goods into commerce, so long as "it was not shown that the restrictions on the shipments had operated to restrain commercial competition in some substantial way"—in other words, if the restrictions on commerce were incidental to the objects of unionization or securing better terms and conditions of employment.

Although the Supreme Court denied it was overruling past decisions, it is quite clear that the Apex case did just that. Then in the Hutcheson case,[26] the Supreme Court carried its new views one step further. This case arose out of a nationwide boycott instituted by the Carpenters' union against Anheuser-Busch brewing products because that company gave work in a jurisdictional dispute to members of the Machinists' union rather than the Carpenters' union. The Supreme Court not only found that this nation-wide boycott in support of a jurisdictional dispute was not a violation of the Sherman Act, but it declared that the Norris-LaGuardia Act had, by implication, overruled the Court's previous interpretations of the Clayton Act. Therefore, the Clayton Act, which purported to give labor immunity under the anti-trust laws, was now to be interpreted in the light of original Congressional intent. Thus, labor combination was almost completely outside the purview of the Sherman law.

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[25] *Apex Hosiery Company v. Leader*, 310 U. S. 469 (1940).

[26] *United States v. Hutcheson*, 312 U. S. 219 (1941).

The extended immunity granted labor from the anti-trust laws and the injunction by the Norris-LaGuardia Act and the Hutcheson decision was followed to its logical conclusions in subsequent decisions. The American Federation of Musicians was permitted to maintain a nation-wide boycott on recordings by refusing to have its members make such recordings[27]; a Hod Carriers' union was permitted to prevent usage within its jurisdiction of a low-cost cement-mixing machine except under conditions which made the use of such machines financially impossible[28]; building trades unions were permitted to boycott materials because they were produced by companies where rival unions were bargaining agents or because they were prefabricated instead of put together on the job[29]; unions were allowed to picket or boycott a company solely on the grounds that it dealt with a rival union and despite the fact that if the employer recognized the picketing or boycotting union, he would violate the National Labor Relations (Wagner) Act[30]; and finally, a union could with immunity have its members refuse to work with an employer ready and willing to deal with the union because of a grudge against the employer even though the effect was to force the employer out of business.[31]

Despite these decisions unions did not receive complete immunity from either the Sherman Antitrust Law or the injunctive process. In the Allen Bradley case,[32] the Supreme Court ruled that a union could not conspire with employers to refuse to work on materials produced outside of New York City and thereby give New York City manufacturers a local monopoly. If, however, the union engaged in identical conduct on its own, and without the connivance of employers, presumably the new interpretations of the Clayton Act would remove such conduct from the proscriptions of the Sherman Act.

The use of the injunction against unions during this period resulted from union racial discrimination. The first cases arose out of attempts of certain railway unions to use their position as bargaining agents to drive Negroes, who were not admitted to membership, out of jobs.[33] These cases are best understood after our discussion of the Railway Labor and Wagner Acts in Chapters 28 and 30. The second of these race discrimination cases in which an injunction figured resulted from the refusal of the AFL Boilermakers' and Shipbuilders' union to admit Negroes on an equal basis. Since this union had closed shop contracts, it meant that Negro and other non-white workers had to accept second class "Jim Crow" status in the union or look elsewhere for work. The Supreme Court of California upheld the claim of the non-white workers that this situation represented an illegal monopoly on the part of the union and issued an injunction requiring the union either to admit workers without discrimination, or to avoid its closed shop in so far as non-white workers were concerned.[34]

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[27] *U. S. v. American Federation of Musicians*, 318 U. S. 741 (1943).

[28] *U. S. v. International Hod Carriers' Union*, 313 U. S. 539 (1941).

[29] *U. S. v. Building & Construction Trades Council*, 313 U. S. 539 (1941); *U. S. v. Brotherhood of Carpenters*, 313 U. S. 539 (1941).

[30] *NLRB v. Star Publishing Co.*, 978 (2d) 465 (1938).

[31] *Hunt v. Crumback*, 325 U. S. 821 (1945).

[32] *Allen Bradley v. Local No. 3, IBEW*, 325 U. S. 797 (1945).

[33] *Steele v. Louisville & N. R. Co.*, 323 U. S. 194 (1944); and *Tunstall v. Brotherhood of Locomotive Firemen*, 323 U. S. 210 (1944).

The Supreme Court and Picketing, 1932–47

Right up to the passage of the Norris-LaGuardia Act, many state and federal courts took the position that all picketing was coercive in intent and unlawful and that there could be no such thing as peaceful picketing. On the other hand, a smaller number of courts were, at the same time, ruling that all peaceful picketing, including stranger picketing, was lawful. The fact that picketing is, at one and the same time, a method of communication and a method of strong persuasion which at least borders on coercion, aided this judicial confusion, which still exists, although in a different form.

In 1937, in a case which affirmed the right of a state to enact a "Little Norris-LaGuardia" law,[35] Justice Brandeis noted that workers may freely disseminate information and the state may reasonably "regulate the methods and means of publicity as well as the use of public streets." This did not say that peaceful picketing was a form of speech and therefore was protected by the First Amendment. Three years later, however, in Thornhill v. Alabama,[36] the Supreme Court completely accepted the free speech doctrine. An Alabama law which termed picketing a form of loitering and therefore a misdemeanor was found unconstitutional on the grounds that (1) picketing was a form of speech and, as such, was protected by the First Amendment; and (2) a penal statute which makes picketing a misdemeanor without regard to whether it is done peacefully or not is therefore unconstitutional.

Considering picketing as merely free speech, however, did not prove any more satisfactory than did considering picketing as merely coercion. As a result, the Supreme Court slowly began to modify its views. In 1941, it first affirmed the free speech doctrine in a case upsetting an Illinois injunction against stranger picketing.[37] On the same day, however, the

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[34] *James v. Marinship*, 155 P. (2d) 329 (1944).

[35] *Senn v. Tile Layers' Protective Union*, 301 U. S. 468 (1937).

[36] *Thornhill v. Alabama*, 310 U. S. 88 (1940).

[37] *American Federation of Labor v. Swing*, 312 U. S. 321 (1941).

Supreme Court affirmed another Illinois injunction which forbade all picketing by a milk drivers' union because the union had engaged in considerable violence so that any picketing, even if conducted peacefully, would not really be peaceful because it would be supported by its connection with, and memories of, past violence.[38] Without admitting it, the Supreme Court thus agreed that picketing, even though peaceful, could be more than free speech.

Following these decisions, the Supreme Court went further on the road back by sustaining a Wisconsin court order which forbade all picketing because some violence had occurred in the course of a strike.[39] Shortly thereafter, although reversing a New York court order which granted an injunction, the Supreme Court noted that picketing could be both communication and coercion.[40] And then in a case decided on the same day, it ruled that a Texas court could enjoin picketing of a restaurant by a Carpenters' union which was objecting to the fact that the restaurant owner was building a home with non-union carpenters.[41] The Court's rationale in this case was that the restaurant owner's dispute with the union did not concern the restaurant business, but was a private matter. Then the Supreme Court went on to say that picketing was both free speech and coercion.

Thus by 1947, the Supreme Court had greatly expanded the area of allowable economic conflict in the form of picketing. It did, however, backtrack from its momentarily held view that picketing was merely communication.

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[38] *Milk Wagon Drivers Union v. Meadowmoor Dairies, Inc.*, 312 U. S. 287 (1941).

[39] *Hotel & Restaurant Workers v. Wisconsin Employment Relations Board,* 315 U. S. 437 (1942).

[40] *Bakery & Pastry Drivers Union v. Wohl,* 315 U. S. 769 (1942).

[41] *Carpenters & Joiners Union v. Ritter's Cafe,* 315 U. S. 722 (1942).

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Railway Labor Legislation

The government's role in industrial disputes is a result both of the public interest in peaceful settlement and of pressure on the part of labor and management for governmental assistance in settling disputes to their respective satisfactions. Numerous agencies have been established by the federal, state, and municipal governments, but they may be divided into two general categories: regulatory, quasi-judicial bodies such as the National Labor Relations Board, and various state agencies established pursuant to state acts,[1] whose functions are to regulate employer and union conduct and to determine disputes arising over representation questions—i.e., which union, if any, shall represent a certain group of employees; and agencies such as the United States Conciliation Service, and various state and municipal agencies whose job is the settlement by peaceful means of industrial controversies. The first group is engaged primarily in law enforcement; the second is concerned with the adjustment of disputes by mediation, conciliation, or resort to arbitration. The Railway Labor Act with which this chapter is concerned, as well as the Taft-Hartley Act, combines elements of both categories.

Conciliation, Mediation, and Arbitration

Mediation and conciliation are interchangeable terms meaning the intervention in discussion between labor and management representatives of a third party, who has no compulsory powers, but whose job is to assist the parties to reach an agreement. Under some laws, mediation has supplemented or been supplanted by compulsory investigation, which entails the intervention of a government official or body with authority to investigate the causes of disputes, using subpoena power if necessary, and to publish findings usually with the idea of aligning public opinion behind the findings to such an extent that the disputing parties will agree to them as a settlement.

Arbitration goes still further.

> It involves the intervention of a third party for the express purpose of making a decision or an award with respect to the points at issue.

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[1] Also in this category would be the agencies established by various states to regulate only unions and the fair employment practice legislation recently enacted in several states. See Chapter 32, pp. 710–711.

> Where the parties are not required to submit the dispute to arbitration, we have voluntary arbitration. Voluntary arbitration is usually accompanied by a previous agreement to abide by the award, i.e., by "compulsory" acceptance of the award, but this is not necessarily so. Likewise the term "compulsory arbitration" as generally used means compulsory submission of the dispute to arbitration together with compulsory arbitration wherever the submission of the dispute is compulsory regardless of whether the acceptance of the award is voluntary or compulsory.[2]

The difference between mediation and arbitration is thus great, and the functions of the mediator and the arbitrator poles apart:

> The mediator's function is to placate the disputants, to harmonize the differences between employer and employee, and by winning concessions from both sides through force of personality and tact to effect an agreement acceptable to the parties concerned. Compromise is inevitable. Mediation is not interested in the justice of the respective claims; the elements of fairness, reasonableness, and equity do not enter the proceedings. . . . A mediation decision is merely an adjustment of the dispute, rather than a judgment on the merits of the case. . . . Arbitration on the other hand, implies a weighing of the arguments of the respective sides by a board containing at least one impartial member, and an award representing a judgment upon the merits of the questions involved. The arbitrator's function partakes of a judicial nature; the decision rendered must be based upon some definite, accepted principle of reason governing the disputed question. . . . [3]

The function of enforcement agencies such as the National Labor Relations Board is similar to arbitration in that it is judicial in character. Frequently, however, the NLRB staff effects settlements of controversies arising out of charges of unfair labor practices or of representation on an informal basis. Such settlements partake of the nature of mediation to some extent, but differ from it in that the settlement reached must conform to definite legislation which cannot be compromised. It should be noted that the National Labor Relations Board is not authorized by law to mediate, but merely utilizes mediation to speed settlement of law enforcement cases.

Development of Railway Labor Legislation

The railway industry has served as an experimental laboratory for public control of labor relations. The strategic position of the railway industry in the American economy and the consequent inconvenience to the public if railway service is interrupted; the rapid rise of the railway train and engine service brotherhoods to economic and political prominence; and the early recognition by the judiciary that Congress had the right to regulate railroads, all led to agitation for federal intervention in railway labor matters. In 1888 a law was passed which provided for voluntary arbitration under government auspices of any railway labor dispute and for investigation of the causes of and means for adjusting specific controversies by a board composed of the Commissioner of Labor and two additional persons appointed by the President. The arbitration section of this law was never invoked and only one investigation was made—in the Pullman strike of 1894—and then not till the strike had been defeated with the assistance of the injunction and the use of federal troops.[4]

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[2] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 2–3.

[3] J. N. Stockett, *The Arbitral Determination of Railway Wages* (Boston, Houghton Mifflin Company, 1918), pp. xii–xiii.

The failure of the 1888 legislation led to the enactment of the Erdman Act of 1898, which, as slightly amended by the Newlands Act of 1913, governed railway labor relations till World War I. Both laws stressed mediation and recourse to voluntary arbitration if mediation proved unsuccessful and both applied only to operating employees. In addition, the Erdman Act outlawed "yellow-dog" contracts and discrimination by an employer against employees because of union activity. Although the latter two provisions were invalidated by the Supreme Court in 1908, they contained the basic ideas which were later incorporated into the Norris-LaGuardia and National Labor Relations Acts, as well as in the Amended Railway Labor Act of 1934.

The World War I Period

In 1916 the railway brotherhoods demanded a change from the 10-hour to the 8-hour day, without loss of pay, and refused to arbitrate the matter although the carriers were willing to do so. Failing to achieve settlement by personal mediation, President Wilson went before Congress to insure passage of the Adamson Act which gave the brotherhoods their demand. Like previous legislation, it did not apply to non-operating employees, whose organizations were then small and politically impotent.

Soon after America entered the war, President Wilson, by virtue of a previous act of Congress, took over the railroads and established the Railroad Administration headed by a "director-general," who gave immediate attention to the demands of labor. Commissions were established to pass upon questions of wages and working conditions. The anti-discrimination provision of the Erdman Act, which had been declared unconstitutional, was restored by an order providing that "no discrimination will be made in the employment, retention or conditions of employment of employees because of membership or nonmembership in a labor organization." And bipartisan "boards of adjustment" were established, consisting of an equal number of labor and management representatives, empowered to decide grievances and other disputes arising out of the interpretation of collective agreements. If an adjustment board deadlocked, it could refer a dispute to the director-general.

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[4] For a discussion of early railway labor legislation, see C. O. Fisher, *Use of Federal Power in Settlement of Railway Labor Disputes*, Bulletin No. 303 (Washington, U. S. Bureau of Labor Statistics, 1922); Harry D. Wolf, *The Railroad Labor Board* (Chicago, University of Chicago Press, 1927); and Howard S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), chap. 3.

The most disputed acts of the Railroad Administration involved those pertaining to rules governing working conditions. The 8-hour day was universalized on the roads and penalty overtime was added. The rates of Negro operating crews, who had previously been paid discriminatorily low rates, were equalized with those of whites, and equal pay for equal work was provided for temporary women employees. The rigid seniority system governing both promotion and demotions, which the operating crews had succeeded in establishing, was extended to all other crafts. Piecework in the railway shops was abolished. And, most important, a detailed and extraordinary rigid classification of shop craft employees and their duties was set forth and later made a part of national agreements which the director-general executed with most of the standard unions. This classification resulted in substantially increased costs, as well as a waste of manpower.[5]

THE RAILROAD LABOR BOARD

Considering the treatment accorded them under government operation, under which all the railway unions had expanded their memberships greatly, it was quite natural that these unions wholeheartedly opposed the return of the roads to private ownership. They supported the "Plumb Plan," by which the government would purchase the railway system and run it through a tripartite commission on which labor would have representation. It had little support elsewhere. In March 1920, the railroads were returned to private ownership under the terms of the Transportation Act (Esch-Cummings Law), Title III of which established machinery for the handling of labor disputes. It remained in effect for six troubled years. Unlike previous legislation, it applied to all railway employees. A 9-man tripartite Railroad Labor Board was established, with the labor and carrier representatives chosen from a panel recommended by their respective groups. Disputes were required to be discussed by the parties before being brought to the attention of the board, and provisions were made for the voluntary establishment of adjustment boards, whose function it would be to handle minor disputes. The law, however, contained no enforcement machinery.

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[5] Harry D. Wolf, *The Railroad Labor Board* (Chicago, University of Chicago Press, 1927), pp. 14–50.

The Railroad Labor Board began its work in the midst of a period of unrest occasioned by rising prices. Decision No. 2 of the board gave railroad employees substantial increases. Soon thereafter, however, the depression of 1921 commenced. The carriers secured wage decreases, a revision of the rigid working rules, including permission to return to piecework, and abrogation of the national agreements. And when the downturn continued, the board ordered further decreases in the rates of some non-operating groups in 1922, but this time left intact the wages of the higher paid operating groups (who had threatened a strike as a result of the 1921 cut). The shop crafts then began their long nation-wide strike in which they were joined by large numbers of workers in other non-operating classes, but in which they suffered a thorough defeat.

The Railroad Labor Board ruled that the representative of the majority of any craft or class should be the representative for all workers and that employees should be free to choose their representatives without interference from the employer. The Pennsylvania Railroad declined to recognize the standard unions except the operating brotherhoods, however, and established employee representation plans. The inability of the board to enforce its decisions caused workers to lose confidence in it.

When the Transportation Act of 1920 was written it was assumed that adjustment boards would be established without difficulty. However, the non-operating unions insisted on national adjustment boards as had existed during the war, whereas the railroads refused to consider anything broader in scope than regional boards. The result was that no boards were set up for the non-operating groups and all the petty grievances fell to adjudication by the Railroad Labor Board. The operating brotherhoods and the railroads, however, established four regional boards which remained in existence till 1934.

THE RAILWAY LABOR ACT OF 1926

The dissatisfaction of both unions and management with the Railroad Labor Board induced them to agree on a bill which became the Railway Labor Act of 1926. This act made it the duty of the parties to exert every reasonable effort to "make and maintain agreements concerning rates of pay . . . working conditions" and to attempt to adjust all differences by peaceful methods. A 5-man non-partisan Board of Mediation was created, which attempted mediation if the parties could not agree among themselves. The board was further instructed to urge voluntary arbitration if mediation proved unsuccessful. If arbitration was refused and the dispute was such as "substantially to interrupt interstate commerce" the Board of Mediation was instructed to notify the President, who could create special emergency boards to investigate and publish findings. During the pendency of these various proceedings and until 30 days after the report of the emergency board, neither party was to alter "the conditions out of which the dispute arose" except by mutual agreement. The parties, however, were under no legal obligation to accept the recommendations of the emergency board.

The act of 1926 also provided that "boards of adjustment shall be created" by the parties for the purpose of handling disputes arising out of the interpretation of agreements. Under this provision the boards established by the operating brotherhoods under the Transportation Act of 1920 continued in operation. In the case of the non-operating groups, however, negotiations between the carriers and the unions broke down as to whether the board should be regional or local in scope. Some 300 adjustment boards were established, but many not until several years after 1926, and for many classes of employees no boards were set up. Moreover, the adjustment machinery provided no means to break deadlocks and since the boards were all bipartisan in character, deadlocks occurred with increasing frequency, so that by 1934 when the adjustment boards were abolished some 2,500 disputes remained to be adjudicated.[6]

The Railway Labor Act of 1926 also provided (Sec. 2, Third):

> Representatives, for the purpose of this Act, shall be designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or by other means of collective action, without interference, influence or coercion exercised by either party over the self-organization, or designation of representatives by the other.

No specific machinery for the determination of employee bargaining representatives was contained in this law, however; nor did it compel carriers to deal solely with the representative of the majority. The act also contained no specific penalties for carriers which violated prohibitions against interference with the free choice of representatives by employees as guaranteed by Section 2, Third. The Supreme Court, however, ruled that such interference was subject to the injunctive process.[7]

The period 1926-34, during which railway labor relations were conducted under the 1926 legislation, was featured by peace on the rails. Only 2 strikes occurred, and but 10 emergency boards were appointed, half of the latter during the last year of the act's operation. The increased threats to railway labor peace during the last year of the act's unamended incumbency have been attributed to inherent defects in the legislation.[8] A more realistic analysis, however, would probably find the causes of unrest in the great depression and the general political upheaval which took place after 1933.

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[6] William H. Spencer, *The National Railroad Adjustment Board*, vol. 8, no. 3, in *Studies in Business Administration* (Chicago, University of Chicago Press, 1938), pp. 11–12.

[7] *Texas and New Orleans Railroad Co. v. Brotherhood*, 281 U. S. 548 (1930).

[8] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 49–51.

THE 1934 LEGISLATION

Whatever its merits, the 1926 act was found defective by the railway unions on several counts. They desired national adjustment boards with effective machinery for breaking deadlocks and for enforcing awards; they desired specific penalties, in addition to the injunctive process, to prevent carriers' influence over the choice of employees' representatives; they desired formal machinery by which bargaining agents could be selected; and they desired drastic change in the personnel of the Board of Mediation, which had fallen from their favor. All these objectives they achieved by the 1934 amendments to the Railway Labor Act, which were backed by the railway unions, assisted materially by the late Joseph B. Eastman, then Federal Coordinator of Transportation, and which were bitterly opposed by the carriers.

The Amended Railway Labor Act maintains the basic structure of the 1926 legislation in so far as mediation, arbitration, and the appointment of emergency boards are concerned. The main difference in this respect is that the 5-man Board of Mediation was abolished and replaced by a 3-man National Mediation Board.

The 1934 amendments established the National Railroad Adjustment Board which has jurisdiction over grievances and disputes arising out of the interpretations of agreements. The Adjustment Board is a bipartisan agency composed of 36 members, half of whom are paid and compensated by the carriers, and half by unions "national in scope." (Thus smaller organizations of workers have no representation on the Adjustment Board.) The work of the Adjustment Board is divided into 4 divisions each of which has jurisdiction over certain crafts. If a division deadlocks, referees are appointed by the National Mediation Board, or by the division if it can agree on a selection.[9]

The 1934 amendments also provided elaborate safeguards for the free choice of employee representatives by setting forth a list of unfair labor practices similar to those contained in the National Labor Relations (Wagner) Act, but providing in addition that any form of union security as well as the check-off is a violation of the act. Enforcement is also different from the Wagner Act in that violations are punishable by criminal penalties and prosecution is under the jurisdiction of the Department of

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[9] For an evaluation of the Adjustment Board, see W. H. Spencer, *The National Railroad Adjustment Board*, vol. 8, no. 3, in *Studies in Business Administration* (Chicago, University of Chicago Press, 1938); and *Administrative Procedure in Government Agencies*, Senate Doc. 10, Pt. 4, Seventy-Seventh Congress, First Session, 1941.

Justice. These penalties, of course, supplement the employees' right to use the injunctive process.[10]

Formal machinery for the selection of employee representatives was also included in the 1934 amendments which provided that the National Mediation Board must ascertain, if a dispute arises, who are the representatives of a craft or class and upon finding to certify them. The National Mediation Board is entrusted with wide discretion in defining "craft or class" and in determining who shall participate in any election if the election method is used.[11]

THE AIR CARRIER AMENDMENTS OF 1936

Soon after its formation in 1931, the Air Line Pilots Association secured the introduction of a bill in Congress to place air carrier employees under the coverage of the Railway Labor Act. This bill failed of passage, but the Association kept trying. Finally, by 1935, the ALPA had obtained the backing of the American Federation of Labor, the Railway Labor Executives Association and the Roosevelt Administration for its goal. Bills extending the Railway Labor Act to air transportation were reintroduced in 1935 and passed with little opposition in April 1936.

When the air carrier amendments became law, the ALPA was the only active union in the field, although a few others were then attempting organization. Organized labor, fearful that the National Labor Relations (Wagner) Act, which then covered air transportation, would be either unconstitutional or ineffective, supported the pilots' case. The air transport industry was divided and, except for a few minor officials, did not testify.

The 1936 amendments place the air transport industry under all the provisions of the Railway Labor Act except those pertaining to the National Railroad Adjustment Board. That agency's jurisdiction is confined to the railway industry. Provision is, however, made for a National Air Transport Board when the National Mediation Board deems it desirable, but thus far there has not been much agitation for the establishment of such an agency.

Analysis of Railway Labor Act's Disputes Procedure

The Railway Labor Act has been heralded as a "model labor law" and has had a profound influence on other legislation both state and federal. For that reason, and because it illustrates many problems involved in public control of labor relations, we shall examine the disputes procedure of this law in detail.

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[10] For an analysis of these provisions, see H. R. Northrup, "Unfair Labor Practice Procedure under the Railway Labor Act," *Industrial and Labor Relations Review*, to be published April, 1950.

[11] See H. R. Northrup, "The Appropriate Bargaining Unit Question Under the Railway Labor Act," *Quarterly Journal of Economics*, 60:250–269 (1946).

REQUIRED COLLECTIVE BARGAINING

Section 2, First, of the Railway Labor Act establishes "the duty of all carriers, their officers, agents and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions and to settle all disputes" peacefully. Ensuing paragraphs of the same section set forth a procedure for collective bargaining which includes (1) written request for a conference relating to a dispute served by one party on the other; (2) written reply by the second party setting a time and place mutually agreeable for a conference; (3) requirement that the conference be held within 20 days after the receipt of the original notice at a location "upon the line of the carrier," except the time and place may be altered by mutual agreement; and (4) prohibition of unilateral changes in contracts except in the manner prescribed in the Act.

Thus, the first basic element in the Railway Labor Act's disputes settlement is the obligation of the carriers to make and to maintain collective agreements, which, by custom, are written agreements. Corollary to this obligation is a second one—the duty to dispose of disputes quickly and peacefully.

The National Mediation Board, the Railway Labor Act's mediation agency, has placed much stress on the policy pronouncement and the procedure for collective bargaining which is embodied in the Act. The Board, as well as many other authorities, has argued that the Act's stated policy and procedure encourage collective bargaining and collective agreements, which, it believes, are "primarily" responsible for the relative absence of strikes in railway and air transportation.[12]

Undoubtedly, the Railway Labor Act has encouraged the making of collective agreements, particularly in the earlier years of its existence when collective bargaining was so much less universally accepted. Few will also deny, however, that the National Labor Relations (Wagner) Act also resulted in a substantial increase in collective agreements. Is the strike record under the Railway Labor Act superior to that in many other industries because the Railway Labor Act makes it the duty of unions and employees to settle disputes peacefully, whereas the Wagner Act did not deal with labor-management disputes? One may well doubt that policy pronouncements have so compelling an influence. Rather, it seems wiser to conclude that, although this portion of the Railway Labor Act has probably been of some value in maintaining industrial peace, its influence has not been nearly so significant as the Mediation Board claims.

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[12] National Mediation Board, *The Railway Labor Act and the National Mediation Board* (Washington, 1940), p. 43.

MEDIATION

If the parties are unable to settle a dispute by collective bargaining, they may seek mediation by the National Mediation Board, or the Mediation Board "may proffer its services in case any labor emergency is found by it to exist at any time."

On the basis of statistics which show that mediation has settled far more cases than other forms of intervention, both the Mediation Board and most of the observers who have studied the Railway Labor Act have concluded that mediation is the most important and most effective method of federal intervention under the Railway Labor Act. There is no doubt that both the railway and air transport industry have profited from the availability of competent mediation services which have had the respect of the participants in collective bargaining in these industries to a degree which the United States Conciliation Service was never able to achieve in other industries. To that extent the National Mediation Board and its employees have performed a real service in aiding industrial peace.

On the other hand, statistics of cases settled, and arguments based thereon, do not distinguish qualitatively among cases. A dispute involving all the standard unions and railroads and one involving three train dispatchers on a single road receive the same weight. Actually, only three nation-wide railroad wage cases have been settled by mediation since 1936; those occurred in 1937, 1948, and 1949, and the 1948 case came after the wage "pattern" had been set. In an industry like the railroads where national collective bargaining settles basic wage issues, it would be surprising indeed if most of the cases requiring government intervention were not settled by mediation. Hence, the fact that mediation is used more than any other form of government intervention does not mean that it is either the most satisfactory or the most successful, but rather that it is the method most useful for minor controversies when the major issues have been disposed of.

One should not infer from this discussion that mediation is unimportant in railway labor disputes. Quite the contrary is true. The existence of a mediation agency having the respect of the parties has aided immensely in bringing about peaceful settlement of numerous cases. Some of these cases conceivably might have erupted into stoppages if such competent or influential mediation were not present. Undoubtedly also, mediation under the Railway Labor Act has prevented minor disputes from becoming major ones. Again, however, this does not make mediation the most effective or most important method of settlement especially in view of the refusal of railway carriers and unions to utilize mediation for critical cases. It is difficult, if not impossible, to rank methods of settlement in view of the various factors involved, and not practical here to do so.

In the air transport industry, mediation under the Railway Labor Act has been of considerable aid in peaceful settlement. The parties are still new at collective bargaining and the service of experienced mediators who have been held in high repute has acted as a restraining influence as well as a guide in collective bargaining.

ARBITRATION

If the National Mediation Board is unable to settle a dispute by mediation, it must request the parties to arbitrate. Either or both may refuse to do so without penalty. If, however, both agree, Sections 7, 8 and 9 provide detailed procedure for the establishment of an arbitration board and for the conduct and enforcement of the arbitration. This procedure was first worked out under the Erdman Act of 1898 and was later modified and refined under the Railway Labor Act of 1926. An award issued under this procedure is final and binding on the parties as it is filed in the nearest federal district court and becomes a court order. It is enforceable as such unless overturned on one or more of the following three grounds: that either the award or the proceedings were not in conformity with the requirements of the Act; that the award did not conform nor confine itself to the stipulations of the agreement to arbitrate; or that fraud or corruption affected the result of the arbitration.

Under the Railway Labor Act, arbitration boards may be composed of either 3, or of 6 members, who are evenly divided between those chosen by unions, those chosen by carriers, and those representing the public. Public members are selected by the partisan members or by the National Mediation Board if the partisan members are unable to agree. Arbitration boards may be reconvened to interpret any section of an award on which the parties disagree.

Perhaps the most surprising thing about arbitration under the Railway Labor Act is that it has been used so infrequently. To be sure, between 1926 and 1934, a total of 538 disputes were settled by arbitration. Most of these disputes, however, were over contract interpretation or else involved unsettled grievances. Since 1934 such disputes have been handled by the National Railroad Adjustment Board.[13]

Between 1934 and 1947 when arbitration of disputes involving contract interpretation and arbitration of disputes arising out of proposed contract changes have been processed separately, only 104 cases of the latter type were submitted to arbitration boards and only 3 of these (2 in 1946 and 1 in 1947) were cases involving nation-wide railway disputes.

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[13] See above, p. 621, note 9.

The reason for this lack of interest in arbitration appears to be the existence of other means of settlement. Minor disputes have been settled mainly either by the parties or by mediation. This is, of course, all to the good since the responsibility for settlement is directly on the parties. On the other hand, major disputes (as well as many minor ones) have tended to go to emergency boards rather than to arbitration boards. The reason for this is rather obvious. As Professor Slichter has pointed out "it is easier for the representatives on one side or the other to . . . refuse to arbitrate if an immediate result is not a strike or a lockout, but the appointment of an emergency board which has no authority to make a binding award."[14]

Despite the reluctance of the parties to utilize arbitration as much as they might, it has proved a valuable means of effectuating peaceable settlement under the Railway Labor Act. This has been true not only on the railroads but also on the airlines. There has been a strong tendency on the part of both airline management and unions to use arbitration when direct negotiation and mediation have failed. In an industry which has had complex growing pains and in which collective bargaining is new, such as the airlines, a well-defined arbitration procedure is a valuable safeguard.

Emergency Railway Disputes

Between 1926 and 1934 when the act was amended, only two minor strikes occurred and only 10 emergency boards were appointed. In at least one case, a board's recommendation was disregarded by a carrier but no strike occurred although the resulting grievances did cause a stoppage in 1936.[15]

Five of the 10 boards appointed during this period were created in the fiscal year 1933–34. The fact that as many boards were appointed during the last year of the unamended act as in the previous 7 is attributable to the increased organizing activity begun in that period and the disputes resulting therefrom; and also to the greater willingness on the part of President Roosevelt, as compared to his predecessors, to appoint emergency boards.

Of the 10 emergency boards appointed prior to July 1934, 9 involved relatively minor cases concerning small segments of the railroad system and only 1 involved a regional case of major importance.

Between 1933–35 the Federal Coördinator of Transportation overshadowed both the United States Board of Mediation and its successor agency, the National Mediation Board, and to a considerable degree usurped the functions of both. Nation-wide negotiations between carriers and unions were mediated by the Federal Coordinator and frequently by the President himself. In a period of turmoil in industrial relations, the major disputes were thus handled outside the framework of the Railway Labor Act.

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[14] S. H. Slichter, "The Great Question in Industrial Relations," *New York Times Magazine* (April 27, 1947), p. 5.

[15] This involved the Louisiana and Arkansas Railroad.

In 1937 the railway unions negotiated a general wage increase with the carriers with the help of mediation by the National Mediation Board. The following year as a result of the recession, the carriers made a demand for a 15 per cent nation-wide wage reduction. The case went to an emergency board, which recommended that the demand be denied. The carriers acquiesced in the settlement. This was the last major dispute prior to 1941.

It was in the period 1933 to 1941 that the Railway Labor Act achieved its reputation as a "model law." This reputation was based on an alleged relationship between railway labor peace and the procedures of the Railway Labor Act compared with strife in industry generally where the act did not apply. A more sophisticated analysis would point to the absence of great organizing drives and new unionism on the railroads at a time when industry generally was involved in the difficult task of adjusting to unionism for the first time.

The tone of wartime labor relations on the railroads was set by the 1941 dispute in which all the standard railway unions demanded substantial increases and an emergency board was appointed to hear the case on a national basis. The recommendations of the board did not meet the unions' desires. They appealed to President Roosevelt; he reassembled the board and in effect put pressure on the carriers and the board to grant further increases, which was done.

Since the 1941 case, similar developments in emergency cases have been common. The 1943 Diesel dispute, the 1943–44 national operating, the Illinois Central case of 1945, the 1946 and the 1947 wage cases were the most important of those which featured union repudiation of emergency board decisions, threatened or actual strikes, and usually government seizure, culminating on several occasions with more favorable terms to the unions than were recommended by the boards. Further union repudiations of emergency board recommendations were involved in the 1943 non-operating, employees, the Pacific Electric, and the Chicago-Milwaukee Interurban cases, but these were complicated by rulings of the Office of Economic Stabilization.[16]

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[16] A history of these cases is found in H. R. Northrup, "The Railway Labor Act and Railway Labor Disputes in Wartime," *American Economic Review*, **36**:324–343 (1946).

In addition to the railway industry, the jurisdiction of the Railway Labor Act has, since 1936, extended over air transport. There have been three emergency boards appointed for that industry.[17] The first involved the dispute over four-engine aircraft pay rates between several airlines and the Air Line Pilots Association. Its report was repudiated by pilots, who struck Trans-World Airline in October 1946. The strike was settled by an agreement to arbitrate which won the union more favorable terms.[18]

The second airline emergency board was appointed after the International Association of Machinists grounded Northwest Airlines by a strike of mechanics on July 3, 1946. The board recommended denial of most of the union's demands, whereupon the union by what it termed "energetic bargaining" succeeded in obtaining a substantial portion of these demands anyway.

The final airline emergency board was appointed after a strike of clerks, mechanics, and pilots on National Airlines had apparently been broken by the company. The emergency board sided with the strikers, and a settlement was reached in their favor.

ANALYSIS OF EMERGENCY BOARD PROCEDURE

Much of the blame for the failure of Emergency Board procedure since 1941 has been placed on activities of the Office of Economic Stabilization which modified Emergency Board awards in three relatively important cases. It is certainly true that the Office of Economic Stabilization acted in these cases without a proper consideration of the delicate tensions inherent in labor relations, but it should also be noted that what the railway employees wanted, and later did secure by getting their stabilization machinery entirely separated from the Economic Stabilization Office, was special treatment under wage stabilization similar to the special treatment that they receive under collective bargaining and social insurance legislation.

It should also be noted that the Office of Economic Stabilization and the War Labor Board modified downward or totally disapproved thousands of voluntary wage applications submitted by employers and unions where such applications proposed adjustments deemed incompatible with the wage stabilization program. Many of these applications were the results of agreements achieved by mediation by the United States Conciliation Service or by state mediation bodies. These disapprovals caused considerable unrest and dissatisfaction among the affected employees. Nevertheless, they were considered necessary to combat inflation, and they did not result in charges that "procedures" under various federal and state mediation services were being improperly interfered with. Again the basic question was whether railway labor was to receive the same type of special privileges under wage stabilization that it has already received under adjustment machinery and social insurance.[19]

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[17] Excluding two or three appointed during the war for stabilization cases.

[18] See H. R. Northrup, "Collective Bargaining by Air-Line Pilots," *Quarterly Journal of Economics*, 61:533–576 (1947).

It should be emphasized, moreover, that the Economic Stabilization Office did not initiate the rejection of recommendations of emergency boards, nor did it devise any new method of settling disputes under the Railway Labor Act. The 1941 wage movement set the pattern for the adjustment of railway labor disputes during wartime. The railway unions themselves rejected the award of the 1941 emergency board, and because of their economic and political power, they were able to obtain the aid of President Roosevelt in putting pressure on the carriers to grant additional compensation over and above what the 1941 emergency board had recommended. Subsequent cases were handled in a like manner, thus providing considerable evidence that the procedures of the Railway Labor Act are effective in maintaining labor peace only so long as they provide results satisfactory to the unions.[20] When the contrary occurs, as it so often has recently, it appears that the awards of emergency boards are simply rejected and the unions make use of their political power to achieve their ends.

These wartime developments should not be surprising. The Railway Labor Act was conceived by the railway unions, and its adoption into law—particularly the 1934 amendments—stands as testimony to their political power. What could be more logical than the further use of political power by these unions to achieve their desired ends whenever the procedures of the act fail to do so?

As a matter of fact, governmental labor machinery, whether "pro-labor" such as the Railway Labor Act, or "anti-labor" like the Taft-Hartley Act, is not only generally the consequence of organized labor's political power, but it ensures continued labor activity in the political field. Labor leaders cannot afford many adverse decisions from government tribunals without seriously endangering their positions within the union. They have been selected to produce results. If they fail, their constituents will replace them with aspirants who promise success where their predecessors have failed. Hence, labors leaders must seek to prevent the appointment of unfriendly or even neutral persons to key administrative posts, and they must keep up an unending pressure on government labor agencies. In short, union leaders must develop political machines capable of decisive action in enough instances so as to command the respect of elected and appointed officials. These facts have been as well-known to the conservative leaders of the railway unions for 25 years as they have been to the leaders of the CIO Political Action Committee since the formation of that organization.

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[19] In regard to social insurance, see R. B. Robbins, *Railroad Social Insurance: Favored Treatment Versus Social Insurance*, National Economic Problems No. 405 (New York, American Enterprise Association, 1945); and J. M. Elkin, "The 1946 Amendments to The Railroad Retirement and Railroad Unemployment Insurance Acts," *Social Security Bulletin*, **9**:23–29 (1946).

[20] That is not to imply that if the railway unions were to demand a 30 per cent increase, they would reject an emergency board recommendation of any less. To those familiar with the bargaining process, however, a recommendation of 18½ per cent may be very satisfactory to a union demanding 30 per cent, whereas a 10 per cent recommendation may be unsatisfactory.

We have already noted that emergency board procedure has interfered with use of voluntary arbitration. It has had the same effect on collective bargaining. It has been used by the parties as a substitute for collective bargaining. Thus the emergency board in the 1948 wage and rules cases stated:

> The board was not asked, on this conversion rule issue, to resolve a question of principle. It was made, instead, the target for a barrage of conflicting arguments about a lot of little details. We were asked to find the answers to all these quibbles in a mass of evidence and testimony which covered 230 pages of exhibits and 150 pages in the record. This was to be done, within a 2-week period, as 1 little piece of a job which included the disposition of 36 other issues on the basis of well over 12,000 pages of testimony and exhibits.[21]

Such a development is probably inevitable. It is the easy way out for the parties to let someone else make the decision for them. In that way they avoid the responsibility, and under the emergency board procedure, still remain free to act.

It is, moreover, not practical to assume that any strict limit can be kept on the number of emergency boards which are to be appointed. As long as emergency board procedure is available, one side or the other will create the "emergencies" if the possibility of gaining a better settlement exists. When that occurs, the pressure on the President, or whoever must appoint such boards, from well-meaning citizens and newspaper headlines to prevent the "emergency," plus added pressure from labor or industry to aid the emergency creator usually results in the appointment of a board, the establishment of a precedent, and an ever increasing number of "emergencies" and boards. In addition to railway labor experience, ample evidence to support this analysis is found in our war labor history, as well as in the experience of other countries which have utilized similar machinery.[22]

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[21] *Report of the Emergency Board in re* [certain Railroads] . . . *and the Brotherhood of Locomotive Engineers, et al.*, 1948.

[22] See B. M. Stewart and W. J. Couper, *Fact Finding in Industrial Disputes* (New York, Industrial Relations Counselors, 1946); and the following Chapter, pp. 650–656.

29

Adjustment Machinery—Federal, State, Local, and Emergency

The United States Conciliation Service

The act of 1913, which created the United States Department of Labor, contained a paragraph authorizing the Secretary of Labor to mediate disputes and to appoint commissioners of conciliation for that purpose. This phase of the Department's work quickly expanded until a special division known as the "United States Conciliation Service" was established in 1917. At its World War II peak, the Service employed 250 persons. Its headquarters was in Washington, D. C., but it has established regional offices in the chief industrial centers of the nation. Among its personnel were industrial engineers, who were assigned to assist employers and unions on controversies involving such technical questions as piecework adjustment. In 1947 it was abolished by the Taft-Hartley Act and an independent agency, whose functions remained basically the same, was substituted for it.

THE WORK OF THE CONCILIATION SERVICE, 1917–47

The United States Conciliation Service regarded as its primary duty the peaceful settlement of labor disputes by informal mediation. The conciliators were available (unless overloaded with work) anywhere in the country within 12 hours after a call for their assistance. Those assigned to the case then usually arranged a meeting, or a series of meetings, with the disputants, at which they attempted to mediate the controversy. These meetings were informal in character, governed by no rules of procedure, and featured by no verbatim transcriptions, nor other marks of the formal judicial process. If the disputes were "hot," or if the conciliator preferred, he could meet with each of the parties separately, either before the joint gatherings, or between such sessions. In this manner, he could more readily learn the difference between what the parties said they wanted, and what they were willing to settle for. Such knowledge, of course, is extremely valuable in narrowing the area of disagreement.[1]

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[1] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 13–17.

Quite frequently, the Conciliation Service was not notified of a labor controversy until a strike or lockout had already occurred. Then the conciliator had the delicate task of attempting to bring about a quick settlement between parties whose nerves, pocketbooks, and positions had already been adversely affected by industrial warfare. In such case, the job is difficult, and often impossible until one side or the other, or sometimes both, comes to the realization that concession is less costly than continued strife.

In some cases, the Conciliation Service proffered its assistance without being asked by either party, hoping to avert a strike. Only in relatively few widely publicized, or extremely important cases, however, could the Conciliation Service be expected to know of impending strikes or lockouts. It depended on one of the parties to the dispute, or an interested third party, e.g., a city mayor anxious to avoid a strike in his locality, for prior notice, unless its regional staff could ferret out the information.

It must be stressed that whether it was requested to intervene by an interested party, or whether it proffered its assistance, the Conciliation Service could not force itself upon a recalcitrant party. If a union or an employer refused to meet with a conciliator, there was nothing that the Conciliation Service could do about it. It was a completely voluntary agency whose services could be requested or declined at the discretion of an affected party.

THE EFFECTIVENESS OF THE CONCILIATION SERVICE, 1917–47

The effectiveness of the Conciliation Service in reducing labor strife was the subject of much discussion, centering around the following points: (1) that the statistics reported by the Conciliation Service which purport to demonstrate its effectiveness do not necessarily prove anything; (2) that the Conciliation Service either was, or was considered by employers, as a labor partisan, and hence was somewhat less effective than might otherwise be the case; and (3) that both in World War I and in World War II, conciliation failed to such an extent that to supplement it, special war agencies had to be created; and (4) that the Service was handicapped by lack of statutory policy.

As to statistics, during the 30 years of its life, the Conciliation Service handled approximately 45,000 cases. The Service claims that approximately 80 to 90 per cent were "adjusted satisfactorily." Annual reports of the Department of Labor contain statements similar to the following made in 1941 by Dr. John Steelman, until recently Director of the Service, that "the Service was able to prevent from becoming strikes or lockouts slightly more than 90 per cent of the 2,251 definitely threatened strikes and controversies which were brought to its attention in advance of stoppage action."[2]

Although these statistics would seem to indicate a very high level of effectiveness, they are subject to many qualifications. In the first place, the mere threat to strike or to lockout may be only a bargaining device which the threatening party has no intention whatsoever of carrying out. Although it is not possible to determine the extent of such cases, they undoubtedly predominate. Strikes and lockouts are costly, and unions and employers, unless immature or inexperienced, are not apt to engage in them without due consideration. In cases of this type, the Conciliation Service has an important duty in easing the way for parties to make concessions without loss of face, and in thus preventing impasses which might have degenerated into prolonged bad feeling or even into stoppages.

The statistics of the Conciliation Service also fail to account for the qualitative factor in labor peace. A strike of 10 dishwashers and one of 500,000 bituminous coal miners or a dispute amicably disposed of involving these two groups cannot be differentiated by the Service's figures despite the relative indifference to the public as to what occurs in one case and the great interest of the public in the other.

Finally, many cases listed by the Conciliation Service as "satisfactorily adjusted" may have been settled by the parties without outside help or referred to another agency, such as the National Labor Relations Board, which actually achieved the settlement.

The Department of Labor was created as a consequence of agitation by trade unions, and its secretaries from 1913 to 1933 were all former union officials. In his second annual report, the first Secretary of Labor stated: "Primarily the Department of Labor must conserve in industrial disputes the interests of the wage earners of the United States."[3] Since then, the Conciliation Service has been often charged with being a labor partisan.

The creation of the Conciliation Service as a separate division within the Department helped toward furthering an impartial atmosphere, but did not sufficiently overcome the earlier partisan approach to the satisfaction of leading employers, who continued to regard anything connected with the Department of Labor as under union influence. Moreover, during the 1920's especially, and during recent years as well, a large number of Conciliation Service mediators were drawn from the ranks of unions. The Conciliation Service has, in the past, defended this practice on the ground that the only available experienced, qualified men have partisan backgrounds and that previous partisanship does not prevent impartiality or competence.[4] There is considerable truth in the arguments of the Service, but large sectors of business have remained decidedly unconvinced.

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[2] *Twenty-Ninth Annual Report of the Secretary of Labor* (Washington, U. S. Department of Labor, 1941), p. 19.

[3] *Second Annual Report of the Secretary of Labor* (Washington, U. S. Department of Labor, 1914), p. 21.

Because of the belief that any mediation agency connected with the Department of Labor will necessarily be regarded as a labor partisan, many observers recommended that the Conciliation Service be removed from the Department of Labor and set up as an independent agency. Those expressing this opinion believed that such a change would give the Conciliation Service the impartial atmosphere which benefits it.[5]

In other quarters, however, this position was less favorably regarded. The war witnessed the mushroom growth of an unparalleled number of agencies which dealt with various aspects of labor problems without either cohesion or central direction, and as a result, often at cross purposes. The late Secretary of Labor, Mr. Schwellenbach, undertook to bring these labor agencies within his Department and to streamline them in order to avoid duplication, waste, and diversity of policy. And the 1946 Labor-Management Conference proposed that the Conciliation Service be kept within the Department of Labor, but that steps be taken to strengthen it.

The first of these steps was through realization that first-class men cannot be hired at second-class salaries. The Director of the Conciliation Service, as Professor Sumner H. Slichter has pointed out, occupies a position of great importance, comparable, e.g., to the chairman of the Board of Governors of the Federal Reserve System. Certainly, the head of any agency devoted to the maintenance of industrial peace by voluntary, democratic persuasion should be at least so considered. Accordingly, a salary of $8,000 or $10,000 is insufficient to attract top men for such a position today considering the headaches and thanklessness of the task; and considering also that both private industry and unions can offer so much more.

Equally important to raising the Director's salary was the necessity of revising upward the pay of the mediators of the Conciliation Service. Prior to 1947 conciliators received $2000 to $5000, with the bulk around $3500. This was obviously too low. A first-class mediator performs invaluable service in preventing industrial strife and consequent loss to the economy. If these salaries had been raised to a $5000–$10,000 range with an average of $7500, the Conciliation Service would have had its pick of good mediators. Although salaries were raised in 1946, they still are insufficient to command first class personnel.

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[4] *Second Annual Report of the Secretary of Labor* (Washington, U. S. Department of Labor, 1914), p. 47.

[5] Cf., e.g., H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 24–27; A. L. Bernheim and D. Van Doren (eds.), *Labor and the Government* (New York, The Twentieth Century Fund, 1935), pp. 349–50.

As to the alleged failure of the Conciliation Service in the two world wars, it has been charged that the very necessity to create war labor agencies to deal with labor disputes is indicative of the manner in which the Conciliation Service has failed to maintain industrial peace in time of crisis. Such reasoning appears to mistake the function of the Conciliation Service for an instrument of final authority rather than a voluntary mediatory agency. The Conciliation Service was not equipped for great emergencies like wars because it could only persuade. If persuasion fails in peacetime, strikes are likely to occur. The only alternative is authoritarian control, which Americans have so far rejected. In wartime, however, the national emergency requires industrial peace. To achieve such peace, emergency agencies have been created to dispose of cases which the Conciliation Service cannot settle on a *voluntary* basis. To say that the Conciliation Service has failed because such emergency measures have been necessary is therefore scarcely accurate.

Finally, there is the charge that the Conciliation Service is hindered by the lack of a definite statutory policy. Usually the advocates of this allegation make plain their belief that the Service should be revamped and made a three-man board, guided by a law similar to the Railway Labor Act which would declare that it was public policy to encourage peaceful settlement of labor disputes and written labor agreements.[6] Those who hold this opinion usually believe that the Railway Labor Act has been much more successful than has actually been the case. They also have greater faith in mere statutory pronouncements than is warranted. By and large, however, critics of the Conciliation Service prevailed over its advocates in 1947 when the Taft-Hartley law was enacted.

THE CONCILIATION SERVICE UNDER THE TAFT-HARTLEY ACT

In the early postwar period, Secretary of Labor Schwellenbach made valiant attempts to improve the Conciliation Service. A labor-management committee was appointed to supervise reorganization. A new director, Edgar Warren, brought in many new conciliators from the War Labor Board which gave the organization a new and improved look. Industry and labor spokesmen joined in praising the results—one of the few concrete agreements of President Truman's ill-fated Labor-Management Conference of 1946.

Unfortunately, Congress did not accept these changes. Despite the almost unanimous recommendation of labor and industry spokesmen, the Conciliation Service was abolished by the Taft-Hartley Act and its personnel transferred to a new independent agency, the Federal Mediation and Conciliation Service. The immediate effect on the Service was to undo most of the improvements made under Mr. Warren. He resigned, as did most of his key personnel. The new Federal Mediation and Conciliation Service also abolished the Technical Division of its predecessor agency. Thus, it commenced operations with a staff of experienced conciliators, but most of them were not top-drawer personnel.

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[6] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 30–32.

The Taft-Hartley Act provided for a single director of the new Service with a salary of $12,000. The man selected for the job by President Truman, Cyrus Ching, veteran labor relations head of the United States Rubber Company, had the respect of both labor and industry. He did much to salvage the Service and put it on its feet, but he was consistently handicapped by inability to recruit first-class personnel despite the higher salary brackets established under Edgar Warren's directorship, perhaps because the tug of war over whether the agency should be within or without the Department of Labor made employment as a conciliator insecure and generally unattractive.

In establishing a separate Conciliation and Mediation Service, the Taft-Hartley Act gave the Service the statutory base which it previously lacked. In addition, Section 201 of the Taft-Hartley Act set forth the policy of the federal government as the peaceful settlement of labor disputes by collective bargaining; Section 203 directed the Service to minimize work stoppages by mediation and encouragement of voluntary arbitration; Section 204 admonished labor and industry to coöperate fully with the efforts of the Service to settle strikes; and Section 205 established a labor-management advisory panel for the Service similar to the one voluntarily set up under Warren's directorship. Finally, Section 8 (d) of the Taft-Hartley Act required labor and management to notify each other of intent to modify a collective agreement at least 60 days prior to the termination date of the agreement and to notify the Service and any appropriate state agency 30 days later if no agreement had been reached.

There is no evidence that the provisions of the Taft-Hartley Act resulted in any significant improvement in the work of the Conciliation Service. The director of the Service, Mr. Ching, claimed that his organization was more acceptable to employers as an independent agency than as a part of the Department of Labor. If correct, this fact may well have been more attributable to Mr. Ching's status among employers and to the pro-employer atmosphere generated by the Taft-Hartley Act than to the severance of the agency from the Department of Labor.

Moreover, the statutory recognition of the Service and the policy pronouncement set forth in the Taft-Hartley Act were in some cases more hindrance than help. Since the Service owed its life as an independent agency to that law, it was included in labor's emotional attack on the Taft-Hartley Act. A goal of all unions in the 1948 presidential campaign was repeal of the Taft-Hartley Act. Not only did union officials decline to utter a kind word for the Service under Mr. Ching when blasting the Taft-Hartley Act, but they almost unanimously urged the return of the Service to the Department of Labor. Moreover, union participation in the Service's labor-management advisory panel was perfunctory at best.

Finally, the requirement that the Service be notified of all pending disputes was of less aid than anticipated because unions and employers sent such notices as a matter of form in order to comply with the law. The Service was therefore in no better position to know where strikes actually were threatened than it had been prior to the passage of the Taft-Hartley Act.

The victorious reëlection campaign program of President Truman included promise both of the Taft-Hartley Act repeal and the return to the Department of Labor of agencies sheared from it by the Republican Eightieth Congress. Mr. Ching immediately indicated he would resign if the Service was restored to the Labor Department, but the new Secretary of Labor, Maurice J. Tobin, was outspokenly in favor of restoring the Service to his Department.

The Conciliation Service thus became involved in a contest over structure which was of no great importance basically, but which undoubtedly has reduced its effectiveness. Under the post-World War II guidance of Edgar Warren, the Service was given a sound injection of new, able personnel and other reforms were inaugurated. Then by reorganizing the Service, the Eightieth Congress abolished the Warren reforms; and by including the reorganization in the Taft-Hartley Act, the Congress insured labor opposition. The debates in Congress and out over whether the Service should be returned to the Department of Labor kept the pot boiling. Meanwhile, attention was distracted from the really important matter—that the Service be manned by a carefully selected, adequately trained and absolutely impartial staff. It is truly unfortunate that the comment of one of the authors made in June 1946 in connection with bills then pending in Congress should still be applicable: "If the mediation services of the government are to be revitalized successfully, they must not be joined to a measure designed to amend prolabor or antilabor legislation; otherwise mediation will bear any onus attached to other provisions of the law."[7]

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[7] H. R. Northrup, "A Critique of Pending Labor Legislation," *Political Science Quarterly*, **61**:218 (1946).

State and Municipal Adjustment Machinery

STATE MEDIATION AGENCIES

In 1878 Maryland passed an arbitration and conciliation law, and by 1900 similar legislation had been enacted by 25 states. In the ensuing decades, however, most of these laws either were repealed or were ignored. As late as 1932, Professor Edwin E. Witte found that only New York, Pennsylvania, and Massachusetts had been active in the adjustment of labor disputes continuously since 1900, and that except in these 3 states there was not "a single state employee devoting full time to mediation in labor disputes."[8]

Beginning in 1933, however, and especially since the 1937 wave of strikes, "many states have either revived dormant adjustment agencies or have passed new legislation authorizing such agencies."[9] Today all but a half dozen states have provisions in their laws for the adjustment of labor disputes.[10]

In only a few of the states is the adjustment of labor disputes made a full-time job. Nor is that surprising. In many states, there would not be enough work to keep even a single conciliator, let alone a board or commission, occupied. Other states prefer to leave adjustment work to the Federal Conciliation Service, with such assistance from the state industrial commissioner, or the state department of labor, as can be rendered by such an agency, which is usually overburdened with work as well as underbudgeted, and which also rarely has qualified mediators on its staff. The states which, in contrast to the general rule, are most active in the adjustment of labor disputes are Connecticut, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, California, and Wisconsin.[11] In all these states, a special agency devotes full time to the job. Since space limitations preclude analysis of the experience of all state agencies, a short discussion of the New York State Board of Mediation will serve to highlight the problem of state mediation agencies.

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[8] Edwin E. Witte, *The Government in Labor Disputes* (New York, McGraw-Hill Book Company, 1932), pp. 252–253.

[9] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), p. 172.

[10] For a summary of the various state laws, see H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), Appendix A; and Charles C. Killingsworth, *State Labor Relations Acts* (Chicago, University of Chicago Press, 1948), pp. 293–298.

[11] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 175–178; also see *Business Week* (January 29, 1949), pp. 72–74.

The New York State Board of Mediation

Since 1886, New York has had official state machinery devoted to the settlement of industrial disputes. Various agencies were created and functioned with limited funds and not too much success until 1937 when the New York State Board of Mediation was created.

The New York State Board is composed of five members, one of whom acts as chairman. The Board's main office is in New York City, but it has established branch offices in other parts of the state. Its staff of mediators are available anywhere within the state on short notice.

Like the Federal Conciliation Service, the New York Board is a voluntary body. It is either asked to enter a controversy, or it may proffer its services, but it has no authority to compel the acceptance of its services. Unlike the Conciliation Service, it is empowered to hold public hearings and to subpoena witnesses, but its subpoena powers do not become effective until after a party has voluntarily accepted its services.[12]

If the New York Board fails to settle a case, it may certify that fact to the State Industrial Commissioner, who may at his discretion appoint an *ad hoc* emergency fact finding board to consider the dispute and make a report to the Commissioner, which may be made public. The New York Board has rarely followed this procedure, preferring to maintain its voluntary method.[13]

Few state agencies, if any, have been involved in so many and so important labor disputes with such a good record of averting strikes as the New York Board. No little of the Board's success may be attributed to its personnel, which has included William H. Davis and Arthur Meyer among others. Both Messrs. Davis and Meyer have not depended on the New York Board for their main source of income, however; if they had not been able to contribute the major share of their services, it is very doubtful if they, or men of their caliber, would be available to the New York Board. Although the salary scale of the Board compares favorably with those of other similar state agencies, it is below that of the Federal Conciliation Service, which, we already noted, is none too adequate.

The relations of state mediation agencies with the Conciliation Service have not always been as cordial as their work necessitates. For example, in New York, till recently a strike might find representatives of both the New York State Board of Mediation and the Conciliation Service on hand, with each anxious to achieve credit for terminating the stoppage, and competing, rather than coöperating, to that end. Such an agency jurisdictional dispute obviously retards peaceful settlement and should not be permitted to exist.

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[12] *In Re New York State Board of Mediation*, 298 N. Y. S. (1937), p. 934.

[13] W. P. Arenwald, "Mediation, Arbitration and Investigation of Industrial Disputes in New York State, 1937–40," *Journal of Political Economy*, 49:70–76 (February 1941).

Fortunately, relations between the Conciliation Service and the various state agencies have now improved. In Pennsylvania, coöperation was pioneered by an agreement whereby all strikes or threatened dispute notices received by either the Conciliation Service or the state agency are transmitted to the other, and the agency which can first reach the scene, or act most effectively, whether state or federal, assumes sole charge. In New York and New Jersey, an excellent wartime arrangement was worked out between the Conciliation Service and the two state mediation boards, whereby the Conciliation Service in effect permitted these state agencies to certify cases to the War Labor Board. This permitted the agencies to continue their work and to relieve the overworked Conciliation Service during a period when otherwise they would have been rendered useless. And coöperation between the federal service and state agencies was encouraged in the postwar period by two provisions in the Taft-Hartley Act which (1) required that dispute notices be sent to state agencies as well as to the federal service; and (2) stipulated that the federal agency avoid intervention in any dispute having only a minor effect on commerce if a state agency's service was available. In 1948, the Federal Mediation and Conciliation Service had agreements with nearly all active state agencies, outlining jurisdictions and formulating a policy of coöperation.[14]

MUNICIPAL ADJUSTMENT AGENCIES

A number of municipalities have at one time or another established machinery for the adjustment of labor disputes. Most have depended upon the volunteer services of public-spirited citizens and have ceased to exist after these citizens retired. Their success has been varied. Experienced mediators have not been available to municipalities and inexperienced ones have frequently done more harm than good. Strikes which occur on the outskirts of a city, or in its suburbs, may vitally affect a city, yet be outside the jurisdiction of its adjustment agency. And if state and federal agencies are already in operation, the intrusion of a municipal board may only complicate matters.[15]

The three cities which have been most active in the settlement of labor disputes in recent years have been New York City, Newark, N. J., and Toledo, Ohio. In New York City, the Mayor maintained a labor relations secretary whose time has been devoted to mediation since 1937, when the New York City Industrial Relations Board was abolished and the New

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[14] *Business Week* (January 29, 1949), p. 74.

[15] W. L. Nunn, "Local Progress in Labor Peace," *National Municipal Review*, **29**:784–791 (December 1940).

York State Board of Mediation created. The labor relations secretary acted only after checking with the State Board and the U. S. Conciliation Service. For the most part, it appears that the duty of the Secretary was to make the interest of New York's mayor in labor peace known to the disputing parties in the hope that settlement would thereby be encouraged.[16]

In 1947 New York City reorganized its labor staff and established a labor management panel to aid in settling labor disputes. Mediation by the City is now conducted either by the labor secretary, or if he fails, by a tripartite panel.

The boards of Toledo and Newark both resulted from the failure of states to establish effective machinery to service highly industrial cities. In both cities these boards had considerable success in maintaining peace. Both agencies, however, ceased to function during the war. The Newark Board went out of existence in 1941, after the creation of the New Jersey State Mediation Board, and the work of the Toledo agency was largely taken over by the Conciliation Service and the War Labor Board.[17] After World War II, however, Toledo reorganized its board, and it is now again active. In addition, Louisville, Kentucky, established an adjustment agency in 1947.

Wartime Adjustment Machinery

In peacetime, strikes are costly, but the alternative, once mediation or persuasion has failed, is government direction in place of free collective bargaining. In wartime, however, no industrial strife can be tolerated. During both World War I and World War II, therefore, compulsion substituted for voluntarism in the settlement of labor disputes. To lessen the degree of compulsion, prominent roles in wartime adjustment machinery were given to representatives of labor and industry. Nonetheless the factor of compulsion remained, and the difficulty of restoring voluntary collective bargaining after compulsory controls are lifted is well illustrated by the great strike waves of both 1919–20 and 1945–46. Moreover, the principles and precedents developed by war labor agencies are likely to have permanent influence on peacetime policy.

THE WORLD WAR I LABOR BOARD

The industrial strains created by World War I—higher prices, expanding industry, and labor shortages—caused considerable unrest and strife even before the United States entered the conflict. To devise remedies, President Wilson called a conference of labor and industrial leaders to formulate a national industrial relations policy. The conference, after 10 weeks' deliberation, agreed on an 8-point program including a pledge of no strikes or lockouts, the freedom of workers to organize and bargain collectively, and the maintenance of the status quo on the question of the closed and the open shop. To effectuate these policies the National War Labor Board of World War I was created in April 1918. The board was composed of 5 industry, 5 labor, and 2 public members.[18]

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[16] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 205–208.

[17] W. L. Nunn, "Municipal Labor Boards of Toledo and Newark," *Monthly Labor Review*, **49**:1045–1049 (November 1936); H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 208–217.

The World War I board was in existence for approximately one year. Although its guiding rule was the maintenance of the status quo in industrial relations generally, it had the effect of encouraging unionism and collective bargaining. Through it, the American Federation of Labor won official governmental recognition on a par with employers associations; and through it peaceful collective bargaining was encouraged.[19]

The World War I board was able to settle all cases referred to it with the exception of three or four, which were referred to President Wilson, who as a means of enforcing the board's awards either took over plants or threatened to draft workers and bar them from war jobs. In view of the national emergency, labor and management generally showed a patriotic willingness to abide by the board's awards.

In addition to its National War Labor Board, World War I saw the creation of several industry boards in industries which the federal government either took over directly or which were considered extremely crucial for the prosecution of the war. They included the U. S. Railroad Administration, the Shipbuilding Labor Adjustment Board,[20] the Emergency (building) Construction Wage Commission, the National (longshore) Adjustment Commission, and the Arsenals and Navy Yard Wage Commission among others. On each, the AFL was granted official recognition and peaceful collective bargaining was encouraged. Most of these special adjustment agencies were created prior to the World War I labor board. After the latter was established, appeal was provided to it from decisions of the industry agencies. An exception was the railroad machinery which was under the exclusive supervision of the director-general of the railroads.[21]

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[18] For a discussion of the World War I experience, see Alexander Bing, *War-Time Labor Disputes and Their Adjustment* (New York, E. P. Dutton and Company, 1921); and *National War Labor Board*, Bulletin No. 287 (Washington, U. S. Bureau of Labor Statistics, 1922).

[19] The World War I board also pioneered in such questions as representation elections, appropriate bargaining unit, majority rule, etc., and thus established precedents for various NRA boards and the National Labor Relations Board.

[20] For a discussion of the work of this agency, a typical wartime board, see W. E. Hotchkiss and H. R. Seager, *History of the Shipbuilding Labor Adjustment Board*, Bulletin No. 283 (Washington, U. S. Bureau of Labor Statistics, 1921).

With the end of the war, strikes flared up throughout the country. At the height of the strike wave, President Wilson convened a National Industrial Conference, composed of labor, industry, and public groups to formulate principles for a "genuine and lasting coöperation between capital and labor." The conference broke down on the issue of union recognition. Moreover, both industry and AFL were extremely wary of government-supervised collective bargaining, and unlike the situation on the railways, did not want it continued. Hence the World War I labor board had no immediate peacetime successor.

THE NATIONAL DEFENSE MEDIATION BOARD

As the defense program got under way in 1940, strikes in crucial industries gave rise to increasing concern. By early 1941, it became apparent that emergency measures were necessary to cope with the situation. On March 19, 1941, President Roosevelt created the National Defense Mediation Board to adjust labor disputes in defense industries. The Mediation Board was tripartite in character, composed of 4 industry, 4 labor and 3 public members, with alternates from all 3 groups. The labor representations were equally divided between the American Federation of Labor and the Congress of Industrial Organizations. Disputes could be heard by the board only after the Secretary of Labor had certified that the United States Conciliation Service had been unable to settle them.

> Three steps were set forth in the executive order for the Board to follow in settling these controversies: (1) Mediation in promoting collective bargaining between the parties before the Board; (2) if this fails, suggestion of voluntary arbitration; and (3) if both of these fail, findings of fact and recommendations, which may be made public.[22]

Thus the Defense Mediation Board was instructed, in effect, to follow a procedure similar to that of the Railway Labor Act, except that all steps were to be undertaken by one agency, which was tripartite in character.

Early in its career, the Defense Mediation Board settled several very difficult strikes by mediation, but soon its procedure partook of compulsion. If it failed to mediate a case, it issued public recommendations. These recommendations carried with them threats of government seizure if either party refused to accept them and a stoppage resulted. Three such seizures occurred during the board's 9 months' existence.

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[21] See Chapter 28.

[22] L. J. Jaffe and W. G. Rice, Jr., *Report on the Work of the National Defense Mediation Board*, Bulletin No. 714 (Washington, U S. Bureau of Labor Statistics, 1942), p. 1.

The most troublesome question which faced the Defense Mediation Board—and the one which led to its downfall—was that of union security. The board attempted to solve this question by "maintenance of membership," thus setting the stage for the policy of its successor agency, the National War Labor Board. Industry generally opposed union maintenance, however, and when the Defense Mediation Board declined to go further and grant the all union shop in the captive mines case the CIO members resigned and the board collapsed.

THE NATIONAL WAR LABOR BOARD OF WORLD WAR II

The collapse of the Defense Mediation Board was followed shortly by the Japanese attack on Pearl Harbor. To provide for the peaceful settlement of wartime labor disputes, President Roosevelt followed Wilson's example and convened a management-labor conference. The conference agreed to settle disputes without resort to strikes and recommended the establishment of machinery for that purpose. Management delegates wished to have union security provisions frozen for the duration, but in effect the President accepted labor's view by committing all disputed questions to the wartime settlement machinery.

On January 12, 1942, the National War Labor Board of World War II was established by executive order. In June 1943, it was given statutory backing by the War Labor Disputes Act, passed by Congress over the President's veto. The previous October it had been assigned wage control under the Stabilization Act. To aid in administering its functions the WLB also established 13 regional boards and several industry commissions. Its jurisdiction included virtually all American industry except rail and air carriers subject to the Railway Labor Act.

Peaceful Settlement

The War Labor Board initially attempted to decide each industrial dispute case on its merits. Gradually, however, it developed official policies on virtually every issue under dispute between the parties. It attempted to maintain peace in settling disputes, as a careful student of War Labor Board policy has noted, by using three basic approaches: (1) appeal to the legal framework governing industrial relations in wartime; (2) appeal to historical precedent, whenever possible; and (3) the use of the principle of compromise.[23]

The WLB used the "legal framework" method most frequently in wage cases. The Stabilization Act and the executive orders issued thereunder set forth the law. Hence when a proposed increase exceeded the "Little Steel" formula, the War Labor Board had merely to cite a higher authority as the basis of its decision.

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[23] Joseph Shister, "The National War Labor Board: Its Significance," *Journal of Political Economy*, 53:38 (March 1945).

The appeal to historical precedent as a basis for maintaining industrial peace is well explained by the following quotation.

> Where an arbitrator's decision is based on historical precedent, especially if this historical pattern has been created and/or perpetuated by collective bargaining, neither party to the dispute can logically accuse the arbitrator of attempting to innovate in the field of industrial relations. Where the parties are convinced of the negative fact that the arbitrator is not trying to impose any "revolutionary" change on either of them, the first step in avoiding conflict has already been taken. And when, in addition, the positive part of the arbitrator's action is molded along historical lines, the parties are very likely to go along with the decision.[24]

Thus the War Labor Board refused to disturb North-South wage differentials, or historical differentials between two plants of the same company located in different parts of the country, or even local differentials between two neighboring plants. Likewise, the WLB refused to alter union or closed shop contracts voluntarily agreed to by management—often even though a union other than the one with which the contract had been made later won bargaining rights.

When the WLB had neither law nor historical precedent to guide it, compromise always remained. The best example is, of course, found in the issue of union security. The principle of maintenance of membership is an obvious compromise between the closed and the open shop. Likewise, compromise guided the War Labor Board when it acceded to unions' demands for such "fringe" issues as paid vacations, paid holidays, and night shift bonuses, but denied demands for paid sick leave and compulsory group health insurance.

The Stabilization of Wages

Since changes in wages invariably affect industrial relations, the stabilization duties of the War Labor Board were closely interrelated with its job of maintaining industrial peace. The War Labor Board realized this quite clearly. For example, its attempt to eliminate interplant wage inequities was based not so much on stabilization principles (although the *extent* of the adjustments permissible under this concept was regulated by stabilization) as by a belief, as expressed by Chairman George W. Taylor, that "the absence of a proper internal rate alignment may often be more destructive of employee morale than interplant differences."[25]

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[24] J. Shister, "The National War Labor Board: Its Significance," *Journal of Political Economy*, **53**:39–40 (March 1945).

But wage stabilization was not only related to peaceful labor relations—it often worked at cross purposes with it. The denial of a voluntary application for wage increases, jointly submitted by an employer and a union, usually caused unrest in a plant, and sometimes a work stoppage. Such stoppages were directed not against employers, but against the War Labor Board.

Because of this conflict between wage stabilization and labor peace at a time when the latter was considered paramount, compromise was often permitted to weaken stabilization. For example, when the 17 per cent per hour general increase demand of the CIO Steelworkers was denied, a variety of fringe issues such as improved vacations, night shift bonuses, and the elimination of interplant inequities was used to mollify the union. In sum, stabilization was made flexible to suit the immediate needs of labor peace.

The Heritage of the War Labor Board

The National War Labor Board of World War II rendered decisions for all industry on every conceivable aspect of industrial relations. For many years to come its decisions are certain to serve as a guide for rulings in labor disputes. The WLB established the historical precedents and the legal framework for arbitrators to follow, and both labor and management now turn to the WLB's rulings for precedents in solving disputed questions. And this will continue to be true whether the War Labor Board's decisions have been "sound" or not, primarily because the scope of such decisions includes all industry and all phases of industrial relations.

Likewise War Labor Board decisions have furthered certain labor goals which have been increasingly prominent in recent years. They include the following: (1) that a "responsible" union deserves union security; (2) that paid vacations, paid holidays, paid sick leave, group health insurance, night shift bonuses and other benefit issues are proper union objectives; (3) that unions should have a voice in the establishment of benefit plans and that such plans are a proper sphere of collective bargaining; (4) that wage rate structures should be simplified so as to eliminate interplant differences; and (5) that wage rates for similar occupations in neighboring areas should be similarly compensated.[26]

The effect of the War Labor Board on postwar labor relations was felt in still another important manner. After four years of setting terms and conditions of employment, the federal government found it difficult to retire from the field because large sections of management and labor found it difficult to return to collective bargaining. Moreover, many unions and many employers were anxious to "teach the other a lesson." This, combined with the pent-up resentment of wartime, did much to make 1946 the greatest strike year of American history in terms of man-days lost from work.

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[25] George W. Taylor, "Wage Regulation in Post-war America," *American Economic Review* (March 1944, supplement), p. 188.

[26] The natural result of establishing "sound and tested" area rates.

Both labor and management were surprised at the duration of some of the 1946 strikes. During the war, such strikes as occurred were short "quickies." The emphasis was on uninterrupted production to the exclusion of all else. Union leaders found in the postwar period that management resistance was much greater, particularly when loss of business was compensated for by rebates of wartime excess profits taxes. On the other hand, those employers who felt that unions could not survive postwar strife miscalculated badly. One result of the postwar strike wave was a more realistic appraisal of the effectiveness, costs, and results of strikes on the part of both labor and management.

Another wartime heritage to which the 1946 strikes gave sharp emphasis was the increasing public concern with stoppages of work which interfered with "essential" services or even inconvenienced a portion of the population. Wartime hysteria over strikers was carried over into the postwar period. Moreover, a number of unions exhibited unparalleled irresponsibility and lack of understanding of public sentiment in striking essential services. One result was the election of a Congress with a Republican majority in 1946, which enacted the Taft-Hartley law; and another result was an increasing concern of state legislatures with "emergency" labor settlement machinery.

Enforcement of Settlements—War and Postwar

During World War I, only three cases of defiance of the War Labor Board of that period occurred. "Two were cases of company defiance and resulted in government seizures. The third was a defiant strike which led to President Wilson's famous 'work-or-fight' order. The workers returned to their jobs."[27]

Seizure in World War II became the recognized method of enforcing orders of the National Defense Mediation Board, the War Labor Board, and railway labor agencies, although in three cases other sanctions were also employed, (e.g., loss of material priorities for companies, loss of draft deferments for strikers).

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[27] L. Teller, "Government Seizure in Labor Disputes," *Harvard Law Review*, **60**:1020 (1947).

Government seizure involves temporary government control of a business. Nationalization is not contemplated. In the absence of specific legislation, the legal basis for seizure rests in the wartime and emergency powers of the executive to prevent a breakdown of essential services to the community.

In 1943, Congress passed the War Labor Disputes Act over President Roosevelt's veto. This law provided a statutory basis for seizure but many wartime and postwar seizures were made under executive emergency power without reference to the wartime law, which expired by its own terms on June 30, 1947.

POSTWAR SEIZURES

The shooting war ended in 1945, but the legal "state of unlimited emergency" not until two years later. In the postwar industrial strife, seizure was utilized on nine more occasions, the latest in mid-1948 in order to avoid a nation-wide railway strike. In addition, the postwar period saw the establishment of numerous ad hoc "fact-finding" boards by the President and the Secretary of Labor. These boards were modeled on the emergency machinery of the Railway Labor Act, but functioned without a statutory base. The use of seizure and emergency boards marked desperate (if not too successful) attempts to head off the postwar industrial strife.

In both the second 1946 coal strike and the 1948 railroad dispute, seizures were accompanied by injunctions terminating the strike in the former, and barring a strike in the latter. When John L. Lewis and the United Mine Workers defied the injunction secured by the federal government, both were heavily fined. On appeal, the United States Supreme Court upheld the fines, ruling that the coal miners were "government employees" during the period of seizure and that the Norris-LaGuardia Anti-Injunction Act did not apply to such "government employees."[28] The Court ruled thus although seizure had resulted in only the most nominal government operation, with the coal mine owners designated as "government managers" of the mines, and with profits accruing to the private owners although losses were assumed by the federal government.

The Taft-Hartley Act and National Emergencies

Between the end of World War II and the passage of the Taft-Hartley Act, Congress and the President made several attempts to devise a solution for the problem of strikes which crippled essential industries. Nearly all of the proposals put forward were modeled on the Railway Labor Act despite the poor record of that law's emergency disputes procedure in recent years. One such provision was passed by the Senate on the very day in 1946 that the nation's railroads were shut down by the only industry-wide strike of railway operating employees up to that time, but that seemed to be of no significance to Congress.[29]

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[28] *United States v. United Mine Workers*, 67 Sup. Ct. 677 (1947).

When the Republicans were returned to power in the 1947 Congress, they claimed, probably correctly, that they had a mandate to prevent a recurrence of the outbreak of strikes which made 1946 the worst strike year in our history. Although the chief attention of Congress was directed toward amending the Wagner Act, considerable attention was also given to revising federal disputes procedures. To that end, the Conciliation Service was made an independent agency and "cooling-off," or 60-day notice, periods were required for changes in contracts, with results noted in the first section of this chapter. These changes were included in Title II of the Taft-Hartley Act, which also established the following procedure for dealing with "national emergency" strikes.

Whenever the President determined that an industrial dispute threatened the national health or safety, he was empowered to appoint a Board of Inquiry to investigate and report on the issues. The President could then direct the Attorney General to petition a federal district court for an injunction[30] to prevent or terminate the strike or lockout. If the injunction were granted, the conditions of work and pay were frozen for the time being and the parties were obliged to make every effort to settle their differences with the assistance of the Conciliation Service. If these efforts failed, at the end of 60 days the Board of Inquiry was required to make a public report on the status of the dispute. The NLRB was then required within 15 days to poll employees as to whether they would accept the last offer of the employer and to certify the result to the Attorney General within 5 days. The injunction then had to be dissolved. By this time 80 days had elapsed since the first application for an injunction. If the majority of workers refused the employer's last offer, then the President submitted the complete report to Congress with or without recommendations for action.

Boards of inquiry were appointed, under this section, on 6 different occasions. In 2 cases, a strike vote on the employer's last offer was taken. and in 2 cases, strikes occurred after the machinery of the Act had been utilized.

The procedure provided by this section was attacked by union officials as being too drastic (particularly the injunction feature) and by management spokesmen and others as lacking teeth. The Act provided no ultimate sanctions against a national emergency strike after the fact-finding period had elapsed, other than the implied threat of possible Congressional action and the force of public opinion. Experience under the Taft-Hartley Act emphasized what experience under the Railway Labor Act had already demonstrated—fact finding reports have relatively little effect in mobilizing public sentiment so as to compel settlement of labor disputes unless there is really a grave national emergency affecting the entire country or most of it.

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[29] This legislation was the Case bill, successfully vetoed by President Truman.

[30] The provisions of the Norris-LaGuardia Act prohibiting use of injunctions in labor disputes were thus suspended.

The procedure of the Act calling for a final vote by employees on the employer's last offer is naïve, for it is unrealistic to suppose that employees will desert their leaders while the bargaining is still going on. In the two votes held under this section, the union membership supported their leaders. Moreover, the voting procedure is anomalous in that it implies that the men have a right, provided by statute, to determine whether to imperil the national health or safety.[31]

Perhaps the most significant feature of the national emergency procedure of the Taft-Hartley Act was that it provided a substitute for collective bargaining which did not contain provisions for final settlement. Indeed, with a few modifications, such as the use of the injunction, the final offer vote, etc., the Taft-Hartley procedure was modeled upon that of the Railway Labor Act. If a procedure similar to that of the Taft-Hartley Act remains in effect for a sufficiently long period, it will most likely lead to results similar to those on the railroads. Irresponsible parties in both labor and management will find it easier to create an emergency than to settle a case. The more emergencies that occur, the less will be the concern about striking after the conditions laid down in the Act's procedure have been complied with. Thus the national emergency procedure can disrupt collective bargaining without protecting the public in cases of genuine national emergency situations.

State Emergency Strike Legislation

"Cooling Off" and Compulsory Investigation

The states have attempted to deal with the problem of strikes in critical industries by various legislative devices. A number of states have inserted strike notice, or "cooling off" provisions in their laws. Colorado requires a 30-day notice; Georgia does the same but excepts industries covered by the Railway Labor Act and certain seasonal industries. Michigan requires a 5-day notice in general industry and a 30-day notice in industries "affected with the public interest"; Minnesota's law is similar, but its general industry requirement is 10 days. "Wisconsin requires a 10-day notice, but this is limited to strikes which would cause the destruction or serious deterioration of the product of any employer engaged in the production, harvesting, or initial processing of any farm or dairy product."[32]

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[31] S. H. Slichter, "The Taft-Hartley Act," *Quarterly Journal of Economics*, **63**:19, 27 (1949).

The Colorado statute is part of a "compulsory investigation" law, which was passed in 1915. It provides that the State Industrial Commission must investigate threatened strikes, and make public recommendations if it cannot settle them by mediation. Studies of the law have shown that the strike notice provisions are often ignored by strong unions, but used by weaker ones in the hope of obtaining a public recommendation favorable to themselves. In several years, the number of illegal strikes have actually exceeded the number of cases in which the law was followed and the State Industrial Commission intervened.[33] Moreover, the State Industrial Commission has found mediation more effective in settling difficult cases than public recommendations. In sum, the Colorado experiment gives no evidence of being a panacea.[34]

Michigan and Minnesota have carried the plain strike notice provisions to their fullest extent. In both states, considerable satisfaction has been expressed over the fact that strike notices exceed strikes by a ratio of better than 10 to 1. The assumption is of course that strike notices are indications of genuine intentions to strike. Actually, of course, such inference drawn from statistics is naïve. Under strike notice provisions, unions will always file intentions to strike during negotiations, first to free their hands, and second, as a bargaining device, to strengthen the union negotiators by threatening the employer with a stoppage if he refuses to meet the union's terms. Strike notices are thus tailor-made devices to increase union bargaining power. Experience not only under these state laws, but also under the Railway Labor Act and the War Labor Disputes Act, has conclusively demonstrated this fact.

STATE COMPULSORY ARBITRATION LAWS

Until recently the states, like the federal government, have been loath to adopt compulsion in the adjustment of labor disputes. Kansas, however, adopted a compulsory arbitration law as early as 1920, after the nation-wide coal strike of that year. The law still remains on the statute books, but its coverage was restricted by decisions of the United States Supreme Court in 1923 and 1924, and since then it has remained dormant. The most careful student of the Kansas law has concluded that it "had no appreciable effect in reducing the number of industrial disputes in Kansas," and that on the other hand, "it was not, as some have maintained a fomenter of strikes."[35] Nothing in the experience of the law or its administration was found to justify a general application of arbitration.

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[32] H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 194–195 and Appendix A.

[33] A similar Canadian law has had a like experience. See B. M. Selekman, *Law and Labor Relations, A Study of the Industrial Disputes Investigation Act of Canada*, Business Research Studies No. 14 (Cambridge, Harvard University Bureau of Business Research, 1936).

[34] C. E. Warne and M. E. Gaddis, "Eleven Years of Compulsory Investigation of Industrial Disputes in Colorado," *Journal of Political Economy*, **35**:657–683 (October 1927); and H. S. Kaltenborn, *Governmental Adjustment of Labor Disputes* (Chicago, The Foundation Press, 1943), pp. 193–196.

The strike wave which followed World War II, and particularly stoppages in a number of public utilities, induced 11 states to enact legislation designed to prevent strikes in "essential services." Eight of these laws provide for compulsory arbitration.[36] The Texas law merely makes it unlawful to picket, strike or otherwise disrupt gas, water, and electric utilities and permits the utility to secure injunctions to prevent actual or threatened interferences with its services. The Virginia law provides for seizure by the governor of a utility which is threatened by a strike. Massachusetts provides for either seizure or for the governor to enter into arrangements providing for continuing of essential services.

These laws reflect, on the one hand, the serious public concern with work stoppages in essential industries; and on the other hand, the animus directed toward labor unions in the immediate postwar period. The Texas law is the most obviously anti-labor. If, however, one examines the legislative history of the other compulsory settlement laws, one finds that, with the exception of Massachusetts, legislators were strongly influenced by a desire to "put labor in its place."

The jurisdictions of the eight state arbitration laws are quite similar. Most of them cover labor disputes in electric power, light, heat, gas, water, communication, and transportation not covered by the Railway Labor Act. The Minnesota law has jurisdiction only over hospital employees; Missouri excludes communication from its list of essential public utilities, but includes sewer service; Pennsylvania covers only electricity, gas, water, and steam heat.

The procedure under these compulsory arbitration laws in general provides that the parties should make every attempt to settle the dispute by collective bargaining; that in the event collective bargaining does not settle the case, a state official or agency shall attempt to mediate it; and that in the event of failure of mediation, the governor shall invoke the emergency statute and arbitration shall be by a tripartite board selected by the parties with a neutral member or members selected either by the state mediation agency, state labor department, or the governor if the parties themselves are unable to agree on the neutral member or members of the arbitration board. Strikes and lockouts are forbidden during the procedures and the arbitration awards are usually made for a period of one year. Most laws provide that the arbitration decision can be reviewed by state courts, but the review cannot substitute the judgment of the court for the judgment of the arbitrators on the merits of the case. Fines for violation of the acts are usually heavy, with a $10,000 assessment for each day of violation by the union or the employer being typical.

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[35] Domenico Gagliardo, *The Kansas Industrial Court* (Lawrence, Kansas, University of Kansas Press, 1941), pp. 229–247.

[36] Florida, Indiana, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, and Wisconsin. The Missouri law was repealed in 1949.

These compulsory arbitration laws have been in effect too short a time to permit a thorough appraisal. A few trends are however apparent. Although several of these laws were enacted in order to reduce union bargaining power, their effect may be precisely the opposite especially when a weak union is involved. Although the New Jersey law, for example, was enacted for the prime purpose of breaking a strike of telephone workers in 1947, in the following year it proved a great boon to telephone unions throughout the country. In 1948, these unions were met by the flat refusal of the Bell System to grant wage adjustments. But by invoking the New Jersey arbitration law, they secured a more sympathetic consideration of their case and won a $4 a week wage increase which forced the Bell System to grant similar adjustments to telephone employees throughout the country.

This particular result should not be surprising. Government intervention is usually helpful to weak unions. Indeed, the compulsory arbitration systems in New Zealand and Australia were inaugurated and kept in existence by labor governments which have found compulsory arbitration an effective mechanism to gain union ends.[37]

The Australia and New Zealand experiences also illustrate another result of the compulsory arbitration laws which the conservative protagonists of this legislation do not usually foresee. Under compulsory arbitration one of the most important factors is the appointment of the arbitrator. The existence of such laws is an additional spur to labor to enter politics on a large enough scale so as to secure the appointment of persons friendly to the aspirations of unions as arbitrators. In 1947 and in 1948, unions were making a special point of concentration on state politics in order to revise unfriendly state legislation, or if this were not possible, to secure friendly administration of it.

The divergency in coverage among the state arbitration laws illustrates another problem. Deciding what is "essential industry" and what is not is a very difficult problem. There seems to be little reason, for example, for including many urban transportation units and communication systems as essential industries. A strike of these industries is, of course, decidedly inconvenient, but communications have muddled through in the rare instances when a strike occurs. On the other hand, a much stronger case could be made for insistence on the maintenance of services in the electric power, gas and water industries, and in hospitals.

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[37] See A. E. C. Hare, *Industrial Relations in New Zealand* (Wellington, New Zealand, Whitcombe and Tombs, 1946).

Finally, it should be recognized that compulsory arbitration will probably destroy the collective bargaining process. The fact that a dispute may be settled by compulsory arbitration is an invitation to the parties not to settle things upon which they could readily agree for fear that to do so would weaken their case before an arbitration board. Moreover, the mere existence of compulsory arbitration machinery is an invitation to irresponsible elements in labor and management to pass the buck to the arbitration board rather than take responsibility and settle the dispute themselves. What the community has to decide is whether labor disputes in so-called essential industries so threaten the community itself that a procedure should be established for the peaceful settlement of such disputes even if that procedure destroys the collective bargaining process and substitutes settlement by government direction.

State Seizure Statutes

Besides providing for compulsory arbitration in public utility disputes, the laws of New Jersey and Missouri also provide that the governor shall seize and operate the utility during the period of emergency. In New Jersey the seizure takes place prior to compulsory arbitration, but in Missouri it is prescribed as a sanction for the enforcement of compulsory arbitration procedures. In both states the governments presumably "operate seized utilities for the utility owner's account under the terms and conditions of employment provided in the arbitration award."[38]

Two other states, Virginia and Massachusetts, provide for seizure without statutory provision for compulsory arbitration. The Virginia law enacted in January 1947 does not establish any agency or procedure fixing or altering terms of employment of the seized utility. Moreover this statute provides that the terms and conditions of employment in effect at the time of seizure shall remain and the state government shall be powerless to alter them. It also is unique in that it provides an allocation between state and seized public utility of income received during the period of seizure. "Criminal penalties are set forth for striking, picketing or otherwise interfering with government operation of seized utility."[39]

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[38] Ludwig Teller, "Government Seizure in Labor Disputes," *Harvard Law Review*, 60:1047 (1947).

The Massachusetts legislation differs in its origin from all other state laws dealing with disputes in public utilities. It resulted from a recommendation by a tripartite committee, headed by Professor Sumner Slichter of Harvard University, which was appointed by the then Governor, Robert Bradford, to recommend changes in state labor legislation. Representatives of the AFL and CIO sat on the committee and concurred fully in its report, although when the bills embodying the recommendations were introduced into the state legislature, the AFL and CIO officially opposed them. The manner in which this legislation was developed helped to dissipate some of the bitterness with which similar legislation has been received in other states.

Briefly, the emergency provisions of the Massachusetts law provide that if in a dispute involving a public utility or a distribution of food or other essential products, the governor cannot induce the parties either to settle the dispute or to submit to arbitration, then the governor may declare an emergency, make such arrangements as he sees fit for the maintenance of the essential services, and/or take possession of the property if he deems that appropriate. During a seizure it is unlawful to strike, picket, or otherwise interfere with the operation of the seized facility. Seizure is terminated when the governor is advised that the parties are in agreement or that the intervention of the state is no longer essential for the public welfare.[40]

State Militia and Seizures

The history of industrial disputes is replete with instances in which the state militia has been called out to maintain order and prevent interference with private property. Unions have claimed, often with considerable evidence, that the militia has been utilized to break strikes. On the other hand, there have been many cases where strike situations have resulted in riots in which the use of troops to maintain order has had justification.

Under common law, all able-bodied male citizens are commonly considered to be members of the state militia. Using emergency powers, "it is possible for the governor of a state, in the event of a strike or threatened strike imperiling the safety or health of the community, to impress the strikers into the militia, if he finds they will not return to work for the state upon seizure, and to direct these members of the militia to work at their old jobs as militiamen. Such action was taken in Virginia in March 1946, in connection with a threatened strike at the Virginia Electric and Power Co., which provides electric power and lighting service to many of the state's inhabitants. The strike, however did not take place."[41]

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[39] L. Teller, "Government Seizure in Labor Disputes," *Harvard Law Review*, 60:1046 (1947).

[40] *Report of the Governor's Labor-Management Committee*, The Commonwealth of Massachusetts, House Document 1875, March 18, 1947; Massachusetts Laws c. 596 (1947).

The Virginia case points up the need for reëxamining powers of the governors and such laws as exist relating to the militia. Certainly, the action of the Virginia authorities bordered closely upon involuntary servitude. The militia was not conceived as an organization designed to keep a public utility running. Forceable impressment of strikers into a militia is not likely either to solve labor-management difficulties or to build respect for state military organizations.[42]

Analysis of Seizure

Seizure is frequently advocated as preferable to other forms of emergency legislation on the ground that it provides relief to the public without substituting government determination of the terms and conditions of employment for collective bargaining. This argument has much force, especially when the seized business is operated for the benefit of the state,[43] and not for that of the private employer, and when terms and conditions of employment cannot be changed during the period of seizure. Under such regulations both labor and management have a vested interest in ending the seizure as soon as possible under most circumstances: management to receive back its property and profits, labor to secure a wage adjustment.

If, however, the issue were a wage decrease, rather than a wage increase, unions in public utilities could conceivably have a vested interest in prolonging seizure indefinitely. The use of seizure to avoid settlement is also clearly possible for employers under legislation where the government operates the plant for the employer's account. And that possibility is accentuated when the employer receives profits during the seizure period, but the government assumes the losses.

Another difficulty with seizure is that it is at best a transparent legal fiction. When the government takes over an establishment, it does so in only the most technical manner. The American or state flag may be raised over the plant; but little else is changed. If, in spite of the legal theorists, practical men penetrate and disregard this fiction of seizure, its effectiveness may seriously decline.

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[41] L. Teller, "Government Seizure in Labor Disputes," *Harvard Law Review*, 60:1047-1048 (1947).

[42] L. Teller, "Government Seizure in Labor Disputes," *Harvard Law Review*, 60:1048 (1947).

[43] The Virginia law divides profits between the owner and the state. A much more practical solution would be for the state to pay the owner a most modest rental.

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The National Labor Relations (Wagner) Act

Background of the Wagner Act

The National Labor Relations (Wagner) Act was enacted largely because of the failure on the part of American employers to modernize their concepts of industrial relations. By 1935, the year in which the Wagner Act was passed, significant changes had occurred in the rate of expansion of employment and in the character of the working force. "When the gainfully-employed persons increased by one-third in a decade, as they did in the eighties, or even faster, as they did in the middle of the nineteenth century, the individual had a much better chance to rise to a skilled position or to become a straw boss, foreman, or superintendent than when the increase was less than 10 per cent, as between 1910 and 1920, or less than 15 per cent, as during the twenties. The favorable opportunities created by rapid expansion made men more interested in rising to better jobs than in getting better conditions on their present jobs."[1]

The opportunities for advancement, of course, became even less favorable during the depression. Furthermore, as job opportunities grew less rapidly, "there occurred a tremendous drop in the resignation rate—from about 70 per cent of the working force in pre-war days to less than 15 per cent (in 1940). This was a change of profound significance because it deprived labor of its principal protection against unsatisfactory conditions and thereby intensified the need for trade unions."[2]

The depression altered another factor in American labor relations. Prior to then and principally because of the existence of alternative job opportunities, American labor did not concern itself too seriously with the manner in which employers handled layoffs. During the depression, however, a widespread feeling developed among workers that layoffs had been conducted in an unfair manner—and, indeed, there was much to support this view. Consequently, workers became interested in collective bargaining as a means of controlling layoffs and thereby developing greater job security.

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[1] S. H. Slichter, "The Development of National Labor Policy," *Studies in Economics and Industrial Relations*, University of Pennsylvania Bicentennial Conference (Philadelphia, University of Pennsylvania Press, 1941), p. 142.

[2] S. H. Slichter, "The Development of National Labor Policy," *Studies in Economics and Industrial Relations*, University of Pennsylvania Bicentennial Conference (Philadelphia, University of Pennsylvania Press, 1941), pp. 142–143.

As changes in employment opportunities were occurring, the character of the labor force was also changing. The annual number of high school graduates increased twenty-five fold between 1890 and 1935. By the latter date 40 per cent of American children were completing a high school education and most of the others were obtaining one or two years of it. Educated and thoughtful workmen brought up on the history of American democracy expect as a matter of right to have a voice in the determination of the conditions of employment under which they labor. American employers, however, were heedless of the changes which had taken place. Desirous of holding on to their prerogatives, and bred in the fierce individualism of the nineteenth century, they were unwilling to share determination of the terms and conditions of employment with organizations of their employees. The result was the passage of the Wagner Act.[3]

LEGISLATIVE BACKGROUND

The failure of industry to alter its industrial relations policies and voluntarily to recognize unions of its employees was all the more remarkable in view of the ample warnings that if industry did not act, government would be compelled to do so. Commencing in 1885 a long list of government commissions and agencies reported favorably in behalf of collective bargaining. In 1898, Congress passed the Erdman Act, which as noted in Chapter 28, contained provisions making discrimination against union activity on the railroads a misdemeanor. Although this provision was declared unconstitutional, later railway legislation included the Railway Labor Act of 1926, and endorsed unionism and collective bargaining. And between 1890 and 1914, no less than 14 states enacted legislation similar to the Erdman Act, only to have the courts declare such laws unconstitutional.

Nor was official governmental approval of collective bargaining confined to opinions of commissions or to railway labor legislation. During World War I, a committee composed of representatives of labor and management established a War Labor Board which not only recognized the right of collective bargaining, but forbade discrimination because of union activity and conducted secret elections to determine bargaining agents. The Norris-LaGuardia Act of 1932 was primarily concerned with judicial procedure involving labor injunctions, but it contained a statement of policy which endorsed the right of employees "to full freedom of association, self organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of . . . employment . . . free from the interference, restraint or coercion of employers. . . ."

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[3] S. H. Slichter, "The Development of National Labor Policy," *Studies in Economics and Industrial Relations*, University of Pennsylvania Bicentennial Conference (Philadelphia, University of Pennsylvania Press, 1941), p. 143.

With the advent to power of the Roosevelt administration, legislative endorsement of the right to unionism and collective bargaining went forward rapidly. The National Industrial Recovery Act, approved June 6, 1933, was fundamentally an attempt on the part of the Roosevelt administration to promote economic recovery by permitting business to establish its own regulations, including control of prices. In order to secure labor support, however, the NIRA included the famous Section 7 (a).

> . . . (1) That employees shall have the right to bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid and protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment.

Although this provision involved the most complete governmental endorsement of collective bargaining outside of the railway industry up to that time, it carried with it no effective penalties in case of employer disinclination to comply. A large number of employers did alter their policies in accordance with the spirit of Section 7 (a), but the great bulk did not. Many employers, for example, took Section 7 (a) as an invitation to establish company unions or employee representative plans in order to prevent the unionization of their employees. On the other hand the American Federation of Labor regarded Section 7 (a) as public encouragement of collective bargaining. This clash of viewpoint led to strikes and industrial unrest as immature unions clashed with anti-union employers.

In an attempt to cope with this situation President Roosevelt appointed a tripartite National Labor Board under the chairmanship of Senator Robert Wagner of New York. The National Labor Board became an agency which took on the functions of settling labor disputes by mediation and voluntary arbitration; of determining whether unions represented employees in a given instance; and of determining whether employers unfairly interfered with the organizational rights of their employees. In carrying out these functions, the National Labor Board developed many of the policies later followed by the National Labor Relations Board under the Wagner Act in regard to the appropriate bargaining unit and the meaning of unfair labor practices. The National Labor Board, however, had no authority to penalize employers for unfair labor practices except by referral to the attorney general's office where the maximum penalty was revocation of the right to place the NRA blue eagle on the product of the alleged unfair employer.

In June 1934 Congress passed Joint Resolution No. 44 which created a National Labor Relations Board as a substitute for the National Labor Board. This agency, not to be confused with the NLRB created under the Wagner Act, continued the work of the National Labor Board and attempted without too much success to overcome the opposition of business within the framework and the limited sanctions of the NRA. Its work ceased effectively when the NRA was declared unconstitutional in 1935.

Besides these two labor boards of the NRA period others were in existence for special purposes. They included agencies established in the textile, automobile, petroleum, and newspaper fields. In addition both the National Labor Board and its successor agency established regional boards throughout the country, thus foreshadowing the administrative structure of the National Labor Relations Board under the Wagner Act.

Wagner Act—Purpose and Content

The Wagner Act ranks without a doubt as the most significant labor law ever enacted in the United States. The Norris-LaGuardia Act of 1932 "ushered in a period of almost complete freedom for union expansion through economic self-help."[4] The Taft-Hartley Act of 1947 modified the Wagner Act in many important respects. But the Wagner Act marked a complete departure from preëxisting governmental labor policy in that "it pledged the government to aid employees in securing independent organization, free from employer interference . . . Congress virtually ordered employers to stop resisting the spread of unionism, telling them that the desire of their employees to organize was none of their business and to keep their hands off."[5] Moreover, in contrast to predecessor legislation aimed in the same general direction, the Wagner Act provided a singularly effective mechanism to achieve its purpose.

The Wagner Act, therefore, required a completely new orientation of employer industrial relations policies. What is frequently overlooked, however, is that its effect on unionism was almost as sharp. When the Act was passed in July 1935, organized labor outside of the railway industry (which is excluded from the jurisdiction of the Wagner Act) meant the American Federation of Labor. The few non-AFL unions were then insignificant organizations. Consequently, the AFL, in abandoning its voluntaristic philosophy, had no thought that government aid to unionism would mean anything more than government aid to the AFL.

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[4] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 223.

[5] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 224.

By the end of 1935, however, the CIO had appeared as a full-fledged rival to the AFL. Although the CIO's initial victories in steel and automobiles were not secured by use of the Wagner Act's machinery, the CIO soon proved that the Wagner Act was something quite different from a convenience to the AFL. This in turn led to considerable antagonism toward the Act by some AFL officials. How the work of the National Labor Relations Board, created to administer the Wagner Act, was complicated by AFL-CIO rivalry, and the effect of the NLRB's decisions on these two federations may best be examined in the course of an analysis of the Act's provisions and administration.

THE ACT ITSELF

Section 1 of the National Labor Relations Act sets forth the findings, policy and philosophy of the law. According to this section the failure of employers to accept collective bargaining results in strikes and the impairment of the instrumentalities of commerce; the inequality of bargaining power between individual employees and employers who are organized into corporations aggravates depressions by depressing wage rates and reducing purchasing power;[6] and the protection of the right of employees to organize into unions of their own choosing removes most of these difficulties. Therefore, Section 1 declares it to be the policy of the United States to encourage "the practice and procedure of collective bargaining" and to protect "the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

Section 2 of the Act sets forth various pertinent definitions; Section 3 creates the three-man National Labor Relations Board to administer the law; and Sections 4, 5, and 6 provide for the organizational structure of the board.

The heart of the Act is contained in Sections 7, 8, 9, and 10. Section 7 declares that employees "shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection."

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[6] The purchasing power theory of the business cycle was a basic strand in the thinking of the New Deal in this period.

By itself, Section 7 is only a forthright statement of employee rights, but taken together with Section 8 it is much more. For Section 8 adds duties for employers for the purpose of effectuating the employee rights guaranteed by Section 7. Section 8 made it illegal for employers to (1) "interfere with, restrain, or coerce employees in the rights guaranteed in Section 7"; (2) to aid or support the unions of employees; (3) "to discriminate against employees in layoffs, promotions or other conditions of employment because of the employees' membership or activities in a union"; and (4) "to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act."

To these negative proscriptions, the Act adds an affirmative one. Section 8 (5) requires employers "to bargain collectively with the duly designated representatives of his employees." The procedure for determining whether a union represents a group of workers is set forth in Section 9. Section 10 details the method for enforcing the unfair labor practice proscriptions of Section 8. The remaining six sections relate to various administrative and procedural matters.

Unfair Labor Practice Procedure

The administration of the Wagner Act was given to the three-man National Labor Relations Board. In performing its duties, the NLRB had two principal tasks: (1) preventing employer unfair labor practices; and (2) determining whether a union represented a group of employees for purposes of collective bargaining.

In a typical unfair labor practice case, under the Wagner Act, the NLRB received a complaint from the union in behalf of an individual worker alleging some violation of Section 8. A field examiner of the Board investigated the case and if the Board found that there was sufficient evidence to warrant a hearing, it set down the case for hearing and, if necessary, issued such subpoenas as were needed for the appearances of records and persons. In more than three-quarters of the cases, however, settlement was achieved by informal methods before the hearing actually took place. Such settlement involved, for example, agreement on the part of an employer to reinstate an employee discharged for union activity, or to post a notice for a period of 30 days stating that he would not repeat or engage further in discrimination in violation of Section 8. If in a preliminary investigation the Board found that there was no basis for the complaint, it would dismiss it and the complainant had no further recourse.

Hearings under the Wagner Act were conducted under the best accepted methods of administrative process. The NLRB was always careful to give all interested parties due notice and the right of hearing. The many complaints lodged against the procedure of the Board were basically either complaints against the administrative process or, in most cases, against the Act itself. Studies of the administrative process generally found that the NLRB stood unusually high among agencies in the observance of the rights of litigants.[7]

As in all administrative hearings, evidence based on hearsay, self-serving testimony and other circumstantial sources was permitted in the record, whereas such evidence is excluded under the strict rules of court procedure. The Board, however, had to base its findings and conclusions upon substantial evidence, for an administrative agency cannot enforce its decisions by itself, but must seek enforcement through the courts. In the Wagner Act, review of the findings and decisions of the NLRB was provided for directly through the circuit courts of appeals, thus bypassing the district courts. This was done in the interest of both uniformity and speed.

An unfair labor practice decision of the NLRB could be reviewed upon petition of the respondent, or if the respondent failed to obey the Board, upon petition of the Board for enforcement. When the petition for review was filed, the record was sent to the pertinent circuit court of appeals which then determined whether the Board's finding was based upon the evidence. The court, however, could not substitute its views for those of the NLRB. If the court held for the Board, it would then issue an order making the order of the Board the order of the court. The employer could then appeal the case to the Supreme Court but if the lower court was affirmed, the employer would have to obey the order or stand in contempt of court. Likewise, if the circuit court declined to enforce the Board's order or upset it, the Board could appeal to the Supreme Court for a reversal of the lower court's decision.

In enforcing unfair labor practice cases, the Board could issue certain orders. For example, it might require the employer to "cease and desist" from activities which it found in violation of Section 8. More important, it might require the employer to take affirmative action, for example, the reinstatement of employees with back pay who have been discharged or discriminated against because of union activity; or even the instatement of employees who were never hired, but who were refused employment because of their union affiliation. In addition, the Board could order the employer to disestablish a company union and withdraw recognition from any union which was recognized or with whom he bargained if that union had been aided by the employer. Finally, in cases in which the employer was found to have refused to bargain with a union which was the duly chosen representative of his employees, the NLRB would order him to bargain upon request of that union.

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[7] See, e.g., D. O. Bowman, *Public Control of Labor Relations* (New York, The Macmillan Company, 1942).

Although the Act sets forth employer unfair labor practices with disarming simplicity, the meaning of an unfair labor practice is, in most cases, not easy to determine. The philosophy of Section 8 was that employers must absolutely refrain from concerning themselves with the union activities of employees. This meant not only that employers henceforth could not establish company union or employee representation plans, but also that the employer could not exercise an influence which might retard or help a particular union to be designated as a representative of the employees.

In the first years of the Wagner Act, employer unfair labor practices were relatively simple to discern, but as the years passed, anti-union activities became more subtle and difficult to detect. The Board had to decide many cases on the basis of controversial evidence, weighing the conflicting testimony of witnesses and judging a particular situation on the basis of the many facts produced in support of and in opposition to various charges. The heat generated by NLRB decisions reflected the sharpness and high emotional content of the issues; for however a case was decided, the NLRB was severely criticized.

The most difficult cases to determine were undoubtedly those in which a "refusal to bargain" was alleged. Frequently, such charges had merit, but often unions filed them as a tactical maneuver to put the employer on the defensive in collective bargaining. The NLRB decided each case on its merits, but some basic principles were developed. For example, if an employer refused to meet with a union, or if he refused to negotiate with an authorized union representative, or did meet with an unauthorized representative, the Board would find the employer refused to bargain. But then there were cases in which the employer was charged with "merely going through the motions." Here the Board had to determine whether bargaining was in good faith. A principal key would be whether the employer made counter proposals or just said "no"; whether obvious employer procrastination was found; or whether the employer would agree to meet with union representatives at a resonably convenient time and place. Also the NLRB ruled that it was an unfair labor practice for an employer to agree with a union on terms and conditions of employment, but then to refuse to embody the agreement in a written contract.[8] These were just a few of the NLRB's decisions which forced a complete turnabout in the conduct of employers who, in pre-Wagner Act days freely discriminated against employees who joined unions and refused to deal with unions under any circumstances.

In its unfair labor practice decisions which pertained to aid given to unions by employers, the NLRB distinguished between cases involving independent unions and those involving affiliated unions. If an employer was found to have aided or dominated an independent union, the board decreed that union to be a company union, and ordered it completely disestablished. On the other hand, if the case involved a situation in which an AFL or CIO union was aided by an employer, the Board would merely require that the aid cease and that any benefits accruing from that aid be relinquished. Critics of the Board felt that this amounted to discrimination against independent unions in favor of affiliated unions, but the Board held to this policy throughout the life of the Wagner Act.

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[8] In affirming this decision, the Supreme Court noted that a businessman would be shocked and suspicious if one of his fellow businessmen refused to put into writing an agreement already arrived at. *H. J. Heinz Co. v. NLRB*, 311 U. S. 514 (1941).

A particularly perplexing problem in regard to unfair labor practices arose in the so-called "free speech" cases. These grew out of attempts of employers to influence the attitude of their employees on unions in general or on the merits of a particular bargaining agent, by speeches, notes in pay envelopes, and other forms of communication. The NLRB treated such employer communications as unfair labor practices if they were coercive in intent or if the communication was a part of a general anti-union campaign. Employers, however, believed that the NLRB's policy was an infringement of their constitutional right of free speech.

In its earlier years, the NLRB was stricter in holding communication an unfair labor practice than after 1941, when the issue was clarified and somewhat modified by the Supreme Court. In general, the Court held that an employer could not use his constitutional right of free speech as part of a general campaign to discredit all or any unions. On the other hand, the courts also ruled that the employer was perfectly free "to remind his employees that in organizing and selecting a union to bargain for them they were making a solemn choice," and that the employer could comment on the importance of that choice so long as he made it clear that the choice of a bargaining representative was still in the hands of the employees and that the employer had to abide by that choice.[9]

REPRESENTATION CASES

Equally important with unfair labor practice cases in the work of the NLRB, and every bit as controversial as a result of the split in the American labor movement, have been representation cases. Section 9 (a) of the Wagner Act provided that "Representatives . . . selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such units for the purposes of collective bargaining. . . . " Congress adopted the majority rule principle basically because experience had shown that it was the only practical method. The representative of the majority is thus the representative of all the employees in the bargaining unit whether or not they are union members, just as a Congressman represents everyone in his district regardless of whether they are members of his party or whether they voted for him or his opponent in the last election. If minority representation were permitted in collective bargaining, the employer would be constantly faced with demands from one or another group desirous of attracting support. Obviously, under such a setup neither collective bargaining nor a business would stand much chance of survival.

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[9] C. O. Gregory, *Labor and the Law* (New York, W. W. Norton and Company, 1946), p. 325.

In order to determine whether a given union was the representative of workers in a plant, the NLRB usually held elections among the workers. The names of the union or unions seeking certification were placed on the ballot along with "No Union." If a union won a majority of these votes, it was certified as the bargaining agent with whom the employer had to bargain as the exclusive agent of the employers involved. If "No Union" received a majority, no certification was made. If, however, there were one or more contesting unions and no majority was received, the Board had to devise a system of run-off elections.

If, for example, XYZ union, ABC union, and no union were on the ballot, and out of 2000 votes cast, XYZ secured 900, ABC 600, and no union 500, the NLRB under the Wagner Act would conduct a run-off election between XYZ and ABC, leaving no union off the ballot. This insured the selection of a bargaining agent, except in cases of tie vote, and was justified by the NLRB on the grounds that the overwhelming majority of affected employees had signified their desire to be represented by a union. If, on the other hand, the vote was XYZ union 900, ABC union 500, and no union 600, ABC union would be dropped in the run-off. ABC supporters could then either vote for their rival XYZ, or vote for no union in the hope that at some future date, ABC could win majority support.[10]

Early in its life the NLRB was forced to determine whether a majority meant a majority eligible to vote, or a majority of those who actually voted. At first it adopted the former interpretation, but it soon found that this inspired coercion to keep employees from voting. The NLRB then altered its policies and certified unions as bargaining agents if they received a majority of the votes cast. This proved a wise move, for it compelled all interested groups to vie in getting into the vote. As a result, votes cast in NLRB elections averaged 80 to 90 per cent of those eligible, as compared with the average 50 to 65 per cent of those eligible who vote in national political elections.

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[10] In its early days, the NLRB would drop "no union" from the ballot if the total vote for both unions was a majority, even though "no union" received the second highest vote.

Bargaining Unit Problems

If the majority rule question posed difficult problems for the NLRB, they were nonetheless relatively easy to determine when compared with the problems involved in deciding which employees are eligible to vote in an election to determine the bargaining agent, and which groups of employees shall have the right to a separate choice of bargaining agents. Congress delegated these problems, known as questions of the "appropriate bargaining unit," to the NLRB, giving it almost unlimited authority in Section 9 (b) of the Wagner Act which stated that "The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." This wide authority was given to the NLRB in the belief, based on experience of the NRA labor boards, that the various problems which arose were not forseeable and could best be determined by the NLRB. The AFL supported this viewpoint, not of course being able to predict that a full-fledged rival would arise to have equal status and different views on bargaining unit problems.

In most cases, however, the NLRB was able to secure agreement from the parties on the bargaining unit. Although the Board decided each case on the merits, it grouped the facts determining its bargaining unit decisions around two basic criteria—the history of collective bargaining, if any, and the mutuality of interests of the employees.

In the first group were such factors as the past relationships between unions and employees, the unit covered by such relationships, the jurisdictional rules of the unions, and past unsuccessful efforts of self-organizations. Strike histories were also important, for strikes show relationships and test the homogeneity of groups.

Around mutuality of interest, the Board placed a variety of factors, such as geographical location, manner of wage payment, degree of skill, comparability of wages, working conditions, etc. This meant that the typical bargaining unit was composed of production and maintenance employees in a single plant. Foremen and supervisors were excluded from the production worker's unit because of their peculiar relation to management. Likewise, office, clerical, and white-collar workers were separated from production and maintenance employees, as were professional employees. In addition, guards and watchmen were placed in separate units because of their unique position, and temporary employees were often deemed outside the bargaining unit, because they had no permanent status in the plant. All these decisions were based on the fact that production and maintenance employees have a basic common denominator which was lacking among other plant groups, especially since many of the latter have a special and different relation to the employer.

In cases of multiple plant companies, the Board usually required each plant to vote separately if the plants were located in different geographic areas, but placed several plants in the same unit if the plants were closely situated, and/or there was a significant interchange of workers among the plants. The NLRB did not find it advisable to

> establish a broad unit including plants where a majority of the employees are opposed to the union which represents a majority of the employees in the other plants of the company. Generally, where other considerations point to the appropriateness of a unit covering all or a group of the plants of a company, the Board includes in the broad unit requested all those plants in which the employees have voted for the union which claims the wide unit. Separate plant elections permit the local group of employees to determine for themselves whether to be included in the company-wide unit. The Board thus establishes as broad a unit as the extent of organization of the union makes appropriate, when other considerations point to the appropriateness of the broad unit.[11]

In a few cases, the NLRB found that employees of several companies were an appropriate bargaining unit, but this occurred only when there was a clear history of multi-unit employer bargaining. After some vacillation the NLRB decided against including in broad multi-employer units (e.g., longshoremen on the Pacific Coast), groups (e.g., longshoremen in Tacoma, Wash.) who were currently bargaining independently of the board unit. On the other hand, generally if a group seceded from a larger unit, the NLRB declined to aid the seceders by placing them in a separate unit.

> In general, where the desires of the majority of a logically separate group, such as a single plant or locality, are opposed to those of the majority of all the employees of the company or group of companies, the Board has permitted the separate group to determine for itself whether to be included in the broad unit. In spite of considerations favoring the broad unit, the Board has held that to impose upon a distinct local group of employees a collective bargaining representative to which they were opposed, would in no way encourage the practice and procedure of collective bargaining, or insure to employees the full benefit of their rights under the Act.[12]

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[11] *Seventh Annual Report of the National Labor Relations Board* (Washington, 1942), p. 61.

[12] *Seventh Annual Report of the National Labor Relations Board* (Washington, 1942), p. 62.

Craft and Industrial Units and Union Reactions

One of the most difficult problems facing the NLRB occurred when contesting unions presented contrary views as to whether the appropriate bargaining unit should be a craft or an industrial unit. Such a situation frequently arose in the metal industries, where, for example, a CIO union would ask that all production and maintenance workers be placed in the same unit, but the CIO's petition might be contested by the AFL Patternmakers, which might be able to point out that the patternmakers in the plant were actually members of its organization.

In such a case, the Board would consider the claims of both parties, and if it found, upon the basis of all the factors, that the craft could logically lay claim to consideration as a separate bargaining unit, and if there was reasonable doubt as to whether the majority of this craft preferred representation by the craft union, or by the union claiming wider jurisdiction, the NLRB permitted the workers in the craft to determine the issue for themselves. The Board accomplished this by providing that the workers in the craft would have a choice in an election of the craft union, the industrial union, or no union, whereas the other production and maintenance workers would vote only for the industrial union or no union. If the craft union won the election among the patternmakers, and the industrial union among the other workers, the Board would then divide the plant into two units and certify the craft union as bargaining agent for the craft and industrial union as bargaining agent for the remaining production and maintenance workers. If, however, the industrial union won bargaining rights for both the craft and the other production and maintenance workers, the NLRB would place the craft in the same unit as the other production and maintenance workers and would certify the industrial union as the bargaining agent for the single large unit. Finally, if either group voted for no union, no certification would be issued where the workers did not wish to be represented by a union.[13]

This policy obviously favored the craft unions. It is therefore difficult to understand why the AFL attacked the Board, and particularly its first chairman, J. Warren Madden, who was the author of this policy. In delving deeper, however, it is clear that what the AFL resented was the fact that its policy of exclusive jurisdiction had been supplanted by governmental supervision of bargaining units based upon the wishes of the affected employees.

To put the matter another way, the AFL has traditionally taken the position that jurisdictional lines should be determined by the Federation itself. The Wagner Act, however, stated that workers shall determine which union they wish to select as their bargaining agent, and the Wagner Act further gives the NLRB the power to determine who is eligible to vote in an election to determine the bargaining agent. Thus, the NLRB had no choice but to give the CIO and any independent union equal rights to appear on the ballot. Since the AFL regarded itself as the chosen instrument of American labor, it was highly resentful to see the CIO and other organizations benefit by the Act which had been pushed through Congress with its support.

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[13] This policy was called the "Globe doctrine" because it was first enunciated in the case of the Globe Stamping and Machine Company.

In passing judgment upon this controversy, one cannot avoid noting that it is far more democratic for workers to choose their bargaining agents than for the AFL to determine what union shall represent a given group of workers. Moreover, the plain fact is that the Wagner Act outmoded the principle of exclusive jurisdiction and required the AFL to adapt itself to certification by a federal agency.

Although the CIO was founded after the Wagner Act became law, it was often no less critical of the NLRB's bargaining unit policies than was the AFL. Neither the AFL nor the CIO were consistent in their criticisms. For example, the AFL bitterly attacked the Board for placing all Pacific Coast longshoremen in one bargaining unit, a decision which the NLRB later modified. But the AFL also criticized the NLRB with equal vigor when the Board declined to place all Western Union Telegraph Company employees throughout the country in a single unit. For its part, the CIO was severely critical of the NLRB's "Globe doctrine" in craft-industrial disputes. Yet the CIO invoked this policy whenever it found it expedient to do so.

Some Problems of Wagner Act Administration

The Foreman and the NLRB

Unlike the Railway Labor Act, which explicitly defined foremen as employees, the Wagner Act was not explicit as to the status of minor supervisory officials. Section 2 (2) of the Wagner Act defined "employers" to include "any person acting in the interest of an employer, directly or indirectly. . . . " But Section 2 (3) defined "employees" as "any employee," with certain specific exceptions, notably agricultural and domestic service labor. Because foremen act "in the interest of an employer" and at the same time are "employees," they can be included within the scope of both definitions. The NLRB so interpreted the act, both in cases involving unfair labor practices and in those involving representation. Moreover, the NLRB's interpretation received uniform support from the federal courts.

Because foremen act for management, the NLRB consistently ruled that any unfair labor practice committed by them is chargeable to the employer.

> The Board contended that such liability is absolute, regardless of whether or not the behavior of the supervisors produces the desired results . . . (or whether or not) the employer has knowledge of unfair practices of the supervisory employees. . . . The employer cannot even escape from the responsibility by instructing and warning the supervisory employees against violating the Wagner Act unless the acts are stopped or actively and effectively disavowed. A mere neutral attitude is not sufficient principally because the employer's responsibility results not as a matter of fact but as a matter of law.[14]

Because foremen are also employees however, they may not be discriminated against because of union activities. As summed up by the Circuit Court of Appeals for the Eighth Circuit:

> A foreman in his relation to his employer, is an employee, while in his relation to the laborers under him he is the representative of the employer within the definition of Section (2) of the Act. Nothing in the Act excepts foremen from the benefits nor from the protection against discrimination nor unfair labor practices of the master.[15]

In representation cases, the NLRB ordinarily excluded foremen and supervisory employees from units of production employees.

> Such exclusion demands a definition of supervisors and foremen; and the Board places in that category those having power to hire and discharge, change wages, apportion work, discipline workers, maintain productivity, or to recommend such action. The assumption is that supervisory employees have interests which differ from those of nonsupervisory employees. It is sometimes difficult to define supervisory employees, but the Board relies upon the interests of the group under consideration and considers all the evidence possible which would indicate the proper category for the employees. Minor supervisory employees are ordinarily included if all parties so agree; but any request for exclusion will cause the Board to exclude them, or the Board may do so if such employees appear close to management.[16]

Again, however, because foremen were also employees under the Wagner Act, the NLRB was presented almost from its inception with petitions from unions requesting certifications as bargaining agents for employee groups who have supervisory functions. The NLRB was able to grant certification in such cases as those involving licensed masters, mates, and marine engineers, plant protection employees, and chief powerhouse operating engineers without any serious ambiguities resulting.

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[14] Walter L. Daykin, "The Status of Supervisory Employees under the National Labor Relations Act," *Iowa Law Review*, **29**:299–300 (January 1944). For a list of pertinent NLRB and court cases, see this admirable study.

[15] *NLRB v. Skinner Kennedy Stationery Co.*, 113 F. (2d) 667 (1940).

[16] D. O. Bowman, *Public Control of Labor Relations* (New York, The Macmillan Company, 1942), p. 163.

It was not until 1942, when the Wagner Act was in its seventh year, that the NLRB was called upon to decide whether a unit composed solely of supervisory employees in a "basic" or mass production industry was appropriate for collective bargaining. Then in the Union Collieries Coal Company case (41 NLRB 964, 44 NLRB 165), a divided Board ruled that assistant mine foremen, fire and weigh bosses, and coal inspectors employed in a coal mine were employees within the meaning of Section 2 (3); and further that these subordinate mine officials "have that community of interest which is prerequisite to inclusion within a single unit." Accordingly, the NLRB certified the Mine Officials Union of America (independent) as the bargaining agent for this group.

Following a change in the composition of the NLRB, the Board reversed itself and refused to certify unions composed of foremen. After some period of industrial strife involving attempts of foremen's unions to force recognition by direct action, the Board once more reversed itself. Just prior to the enactment of the Taft-Hartley Act in 1946, the final decision of the Board, with one of the three members dissenting, was that since foremen were employees under the Act, they had the right to use the facilities of the Act and the Board had no right to bar such use.

The Board, moreover, did not distinguish between independent and affiliated unions of foremen. It did, however, place foremen in separate bargaining units from those of rank and file employees. This separation was more apparent than real in instances in which the same union was certified as the representative of the foremen and of the rank and file.

PROFESSIONAL EMPLOYEES

Since Section 2 (3) of the Wagner Act defines "employee" to "include any employee," the National Labor Relations Board has always included professional employees as "employees" under the Act, rejecting the contention that it was not intended to embrace employees engaged in recognized professions. In so far as unfair labor practice charges are concerned, cases involving professional workers have not resulted in their being accorded any special treatment.

As far as bargaining unit problems have been concerned, the NLRB has excluded professional employees from all bargaining units of production and maintenance work. The Board bases its policy on the fact that professional employees and production workers have no common history of collective bargaining, and that from the standpoint of education, experience, economic interest, relation to their employer, and method and amount of compensation, there is little, if any, mutuality of interest between the two groups.

When the bargaining unit problems involve professional employees and subprofessional technicians and/or white-collar workers, rather than production workers, the problem is somewhat different. In such instances the Board ruled that its so-called "Globe" doctrine applied. In the key case the Board stated:

> Upon the entire record, we find that the professional employees might properly be considered either as a separate unit or as a part of a larger unit composed of professional and nonprofessional employees. Under such circumstances, we apply the principle that the determining factor is the desires of the professional employees. We shall, therefore, direct separate elections in order that we may ascertain the wishes of the professional employees.[17]

Despite the apparent fairness of this policy, a number of professional associations felt that the NLRB was not giving due consideration to the problems of professional employees. This failing, even though based upon a misunderstanding of the NLRB's policies, resulted in a growing demand on the part of various professional agencies for amendment to the Wagner Act. As will be noted, such amendment was secured as part of the Taft-Hartley Act.[18]

WATCHMEN AND GUARDS

From its inception, the NLRB rejected the contention of employers that watchmen and guards should not be considered employees under the Wagner Act. The NLRB placed watchmen and guards in separate bargaining units. During World War II also, when some plant guards were armed, the Board put armed guards and unarmed watchmen into different units.

At all times, however, the NLRB permitted the same union which represented production workers to represent also watchmen and guards. Employers claimed that this reduced the usefulness of these custodial employees because they were reluctant to use their authority on "union brothers." Spokesmen for watchmen and guards generally denied these allegations, and the Board felt that any other policy would infringe on the freedom of organization guaranteed by the Act.

WAGNER ACT–NORRIS-LAGUARDIA ACT CONFLICT

When the Wagner Act was passed, it was not assumed that any union would disregard a certification by the NLRB. Consequently, no thought was given to possible conflicts between the Wagner Act and the Norris-LaGuardia Act.

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[17] *Shell Development Co.*, 38 NLRB 196 (1942).

[18] H. R. Northrup, "Collective Bargaining by Professional Societies," in R. A. Lester and J. Shister (eds.), *Insights into Labor Issues* (New York, The Macmillan Company, 1948), pp. 147-156.

The rise of AFL-CIO rivalry, however, brought the conflict in these two laws to the fore. For example, a number of cases occurred in which XYZ union was certified as bargaining agent for employees in a plant, whereupon the plant was picketed by ABC union. The bald purposes of this picketing were (1) to induce the employer to ignore the NLRB certification and to deal with a non-certified union; and (2) to force the employees who had voted for XYZ union to change their allegiance to ABC union.

The employer in this situation was caught in a disastrous dilemma. If he yielded to the picketing pressure, he violated the Wagner Act and was subject to sanctions for so doing. If he did not yield, his business could be destroyed. He could get no injunction or court relief against the picketing because of the antiinjunction provisions of the Norris-LaGuardia Act.

The dilemma to the employees was as real. Because they had exercised their right of free choice, they stood to lose their jobs through the efforts of the union which they had rejected.

The Teamsters' union, AFL, which employed picketing as its method, and the International Brotherhood of Electrical Workers of America, AFL, which instituted boycotts through its control of building construction workers, were the principal offenders in attempting to compel disregard of NLRB certifications. The latter, in the last days of the Wagner Act, invoked a nationwide boycott of the products of the large Westinghouse Electric Company because most of the production workers of the company had chosen to be represented by a rival CIO union. In many cities, this boycott was quite effective because members of the International Brotherhood of Electrical Workers of America controlled all electrical installation and construction work. The attempts on the part of unions to nullify the right of workers to join unions of their own choosing were indefensible and completely at variance with the basic principles of the Wagner Act. Such activities were also, of course, part of the basic conflict between the principle of exclusive jurisdiction upon which American unionism had been built and the principle of self-determined organization which the Wagner Act made law.

Voting Rights of Strikers

Section 2, paragraph 3, defines employee to "include any individual whose work has ceased in consequence of, or in connection with any current labor dispute or any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment . . . ." In cases where a strike occurred, the NLRB had the difficult problem of determining for a bargaining unit election whether strikers could vote. If the employees were on strike as a result of unfair labor practices on the part of the employer, the Board would order them reinstated and permit them to vote in any election, but as a general rule did not permit persons who had taken their jobs to vote. On the other hand, if the strike was purely an economic one, no reinstatement order would be required so long as the employer did not discriminate against employees because of union membership. The Board, however, in cases of economic strike, would permit both the strikers and their replacements to vote.

The Closed Shop and Related Problems

Section 8 (3) made it an unfair labor practice for an employer to discriminate against an employee because of union membership, or to encourage or discourage membership in a labor organization. If this provision had not been modified, it would have completely outlawed all forms of the closed and union shop. However, Section 8 (3) contained a proviso which stated that nothing therein would "preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in Section 9 (a), in the appropriate collective bargaining unit covered by such agreement when made."

This proviso had the effect of permitting closed or union shops except where the union had been dominated or assisted by the employer, and except where the union did not represent the majority in the appropriate bargaining unit. The effect of the act, therefore, was to place two important limitations upon the right of unions to sign compulsory membership agreements. These limitations caused further dissatisfaction on the part of the AFL with the administration of the Wagner Act. In a number of instances, for example, AFL leaders signed compulsory union agreements with employers who preferred the AFL to the CIO. Upon charges filed by either individual workers or by a CIO union, the NLRB abrogated some of these agreements on the grounds that they violated Section 8 (3) on two counts: that the AFL union had won its contract through company assistance, and that the AFL did not represent a majority of the workers involved. In a few cases, in addition, CIO unions and quite often independent unions also signed contracts in violation of 8 (3) which the Board abrogated.

The statutory limitations of the closed and union shop which were imposed by the Wagner Act were extended by interpretation of the NLRB. In a number of interesting cases, the Board ruled that a union, which either refused admission to members of a rival union or which, just prior to the expiration of a contract, used its compulsory union agreement to cause the discharge of those who were seeking to change the bargaining agent, was in fact violating the Wagner Act. Because, however, there was no provision in the Wagner Act for enforcement of unfair labor practices against unions, the NLRB issued orders against the employer, who was ordered to cease and desist from discharging persons in contravention of this board policy. The employer was also liable for back pay to such persons whom he had discharged. Many persons saw considerable justice in the claims of employers that they should not be penalized for carrying out the terms of an agreement with the union, but rather that such penalties should be assessed against the union itself.

Besides limiting the closed shop, the Wagner Act resulted in other limitations on the freedom of union activity. For example, nothing is said in Section 9 about the duties of unions which have been certified as exclusive bargaining agents for groups of employees. Nevertheless, implicit in the fact that the union's right to act as exclusive bargaining agent derives from an act of Congress is the duty of unions to represent all the employees in the bargaining unit without discrimination. In a number of cases which developed on the railroads under the Railway Labor Act, certain unions used their positions of exclusive bargaining agent to deprive Negroes of their jobs or seniority rights. In a significant case the U. S. Supreme Court held that

> the Railway Labor Act imposes upon the statutory representative of a craft at least as exacting a duty to protect equally the interests of the members of the craft as the Constitution imposes upon a legislature to give equal protection to the interests of those for whom it legislates. Congress has seen fit to clothe the bargaining representative with powers comparable to those possessed by a legislative body both to create and restrict the rights of those whom it represents . . . but it has also imposed on the representative a corresponding duty. We hold that the language of the Act . . . expresses the aim of Congress to impose on the bargaining representative of a craft or class of employees the duty to exercise the power conferred upon it in behalf of all those for whom it acts, without hostile discrimination against them.[19]

Accordingly, the Supreme Court held that the failure of a certified union to represent all workers without discrimination subjected it "to the usual judicial remedies of injunction and award of damages when appropriate for breach of that duty."[20]

The fact that these cases arose under the Railway Labor Act does not mean that they do not have equal applicability where the Wagner Act applies. Both the Supreme Court and the NLRB clearly indicated that they do. The point that no law can give privileges without imposing obligations is well illustrated here.

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[19] *Steele v. Louisville and N. R. Company*, 65 Sup. Ct. 227.

[20] *Tunstall v. Brotherhood of Locomotive Firemen and Enginemen*, 65 Sup. Ct. 236 (1944).

The bargaining unit policy of the NLRB forced other changes in union behavior. For example, some unions which admitted only skilled workers found that if they did not admit unskilled workers who were in closely related operations, the NLRB, by placing both the skilled and unskilled in the same bargaining unit, would permit the former to outvote the latter and thus might permit a rival union to take over the bargaining rights of the skilled workers as well as of the unskilled. In many other ways as well unions were forced to alter their organizing policies in order to conform to the realities of the Wagner Act. The failure of unions to adapt their policies more completely to the legal requirements of the Wagner Act, particularly in the attempt by picketing, boycotting, or other forceful means. to nullify bargaining agent certifications of the NLRB, did much to bring about the amendments to the Wagner Act which were contained in the Taft-Hartley Act of 1947.

Wagner Act, Union Growth, and Strikes

That the Wagner Act achieved its basic purpose in compelling a change in employer policy toward unions cannot be doubted. In 1935, when the Act became law, union membership stood at 3,900,000. In 1947, when the Wagner Act was amended, union membership exceeded 15,000,000. Although this union growth must be attributed to many factors, it was without a doubt substantially hastened by the Wagner Act. In so far as the Wagner Act should be judged as to the fulfilling of its stated policy of "encouraging the practice and procedure of collective bargaining," it was eminently successful.

On the other hand, the Wagner Act cannot be said to have minimized the causes of industrial disputes except in one important respect. The representation procedure of the act provided a peaceful and democratic means of determining whether a union had the right to represent a group of employees. The substitution of NLRB procedure for the use of force in determining this question was one of the great contributions of the Act.

In so far as strikes generally are concerned, however, the Wagner Act had little contribution to make. Congress gave the NLRB no authority to interfere in disputes over terms and conditions of employment. Once the union was certified as bargaining agent and the employer's conduct was purged of unfair labor practices, the Wagner Act left matters to the parties themselves. But since the protection of the Act spurred union activity, the period 1935–41 saw a great surge of union growth. A combination of immature unions and management inexperienced in industrial relations resulted in numerous strikes which more mature and experienced parties might have avoided. Critics of the Wagner Act blamed either the Act or its administration by the NLRB as the cause of the strife. Proponents of the Act blamed management opposition to both the Act and to unions as the cause. Perhaps a more accurate analysis would place the blame mainly on growing pains of unions and learning pains of management.

At least by the end of 1946, after the great strikes of that year, a majority of the public probably blamed the Wagner Act for much of the industrial unrest. Critics of the Act were aided by some excesses on the part of the unions, especially those involved in refusing to honor NLRB certifications. Moreover, the assumption on the part of the proponents of the Wagner Act, which was frequently expressed in the early days of the law, that once unions were effectively organized, strikes would decline, played into the hands of the opponents of the law, particularly after the many strikes of 1946. Hence when the Republican Party captured control of Congress in 1946, its leaders believed that they had a mandate to enact legislation which would lessen the number of strikes—and this they believed meant drastic amendment of the Wagner Act.

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The Taft-Hartley Act and Labor's Reaction

The Wagner Act was under severe public criticism from its enactment in 1935 until its amendment 12 years later. Beginning in 1941, a series of bills modifying the Wagner Act passed the House of Representatives, only to be bottled up in the Senate Labor Committeee. In 1946, the so-called Case Bill passed both Houses of Congress, but was effectively vetoed by President Truman. Two minor laws—the Hobbs Anti-Racketeering Law[1] and the Lea Act[2]–were passed by Congress in this period. The former attempted to curb alleged racketeering by Teamsters, union officials and others charged with disguising extortion behind union demands; the latter was aimed at some of the more obvious "featherbedding" activities of James Caesar Petrillo and the Musicians' union. Neither law proved very successful.

Throughout this period, organized labor remained firmly opposed to any amendment of the Wagner Act. To the pleas of liberal Congressmen that organized labor agree to minor modifications of the Wagner Act, union leaders turned a deaf ear. Their attitude resembled that of employers who in the period before 1935 refused to modify their views on union recognition, until compelled to do so by the Wagner Act. Consequently, labor's friends in Congress had no constructive program with which to combat attacks on the Wagner Act. The amendment of the Wagner Act which was finally enacted, therefore, strongly reflected the views of employer spokesmen whose objective was to curb the power of organized labor.

The stage was set for restrictive labor legislation by the wave of strikes in 1946. In that year, time lost through strikes reached an all time high of 113,000,000 man-days—a figure three times higher than in the previous year or in 1937, the two worst years up to that time.[3] On four different occasions during the year 1946, nation-wide strikes paralyzed essential industries. The blame for these stoppages cannot be laid entirely at the door of labor. Workers will not ordinarily strike unless they believe that their employers have refused to accede to reasonable demands. Nevertheless, the average American citizen was appalled by the power of a union which, twice within the space of one year, could tie up a vital industry such as coal. Public utility strikes, like the lengthy strike of electric light and power workers in Pittsburgh, were particularly damaging to the union cause. Then followed the Congressional elections of November 1946 which reflected strong public dissatisfaction with current labor policies and which were interpreted by Congress as a mandate for restrictive labor legislation. On June 23, 1947, the Labor-Management Relations Act—more popularly known as the Taft-Hartley Act—was passed by Congress over the President's veto.

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[1] 60 Stat. 89.

[2] 60 Stat. 420.

[3] S. H. Slichter, "The Taft-Hartley Act," *Quarterly Journal of Economics*, 62:7 (February 1949).

Thus ended an important stage in the development of national labor policy in this country. The attitude of government toward collective bargaining by employees had passed through a succession of stages from active hostility in the early 1800's when labor organizations were prosecuted as conspiracies to active encouragement of union organization under the Wagner Act. Enactment of the Taft-Hartley Act represented a new stage in government treatment of both management and labor. The metamorphosis which had occurred in public thinking on the subject of collective bargaining is well exemplified by a comparison of the original phraseology of Section 7 of the Wagner Act with its revised wording in the Taft-Hartley Act:

> Employees shall have the right to self-organization . . . for the purpose of collective bargaining or other mutual aid or protection, *and shall also have the right to refrain from any or all of such activities.* . . .

Whereas formerly the weight of government influence had been placed behind union organizing activities, the government now adopted a neutral attitude, recognizing the right of employees to organize and not to organize. Henceforth government was to be not a partisan but a policeman, protecting both management and labor from unfair practices. Whether such neutrality is possible is, of course, debatable.

Scope and Administration of the Act

The Labor-Management Relations Act of 1947 was, in form, an amendment of the Wagner Act. Title I incorporated the text of the Wagner Act with, however, a number of major modifications and additions. Title II dealt with conciliation of labor disputes and national emergency strikes and has already been discussed in Chapter 29. Title III authorized suits by and against unions, and Title IV created a joint committee to study and report on basic problems affecting friendly labor relations and productivity. Most of the provisions of the Act became effective either on June 23, 1947 or 60 days thereafter. However, closed shop, union shop, and other forms of union security contracts in operation when the Act was passed were not affected until expiration or renewal, even though the agreements might have as much as 2 or 3 years to run. Furthermore, union security contracts signed within 60 days of the Act's passage and running for a period of no more than a year were not affected until expiration or renewal. Thus the full impact of the Act on union security contracts did not make its influence felt until about the middle of 1948.

During most of this period, the demand for labor was high and therefore employers, in order to assure a satisfactory labor supply, were inclined to forego exercise of some of the powers given them by the Act, which, if exercised, might have restricted union activities considerably. In appraising the good and bad features of the Taft-Hartley Act, it is therefore necessary to consider its various provisions not only in the light of actual experience under them, but also in the light of what effect they would have had upon union-management relations in times of general unemployment.

ADMINISTRATION

Administration of the Act remained under the National Labor Relations Board, but a number of important changes were made in the composition and power of the NLRB. Section 3 of the Act enlarged the Board from three to five members. To remedy the oft repeated charge made against the Board under the Wagner Act that it was both judge and prosecutor, the prosecuting function was removed from the Board and vested in a General Counsel who was made completely independent of the Board. This was done despite the fine record of the NLRB as an administrative agency. This grant of an independent status to the General Counsel led to difficulties in administration which were not foreseen by the framers of the Act. Disagreement arose between General Counsel and Board as to what employers and employees were subject to the Act. As a result of this difference in interpretation of the law, representation and unfair labor practice cases would be instituted by the General Counsel involving fairly local enterprises only to be dismissed by the Board many months later. The advantages of a bifurcated setup were soon seen to be offset by its liabilities.

EXTENT OF COVERAGE OF THE ACT

The Taft-Hartley Act made important changes in the definition of "employer" and "employee" as these terms were used in the Wagner Act. Formerly the term employer included "any person acting in the interest of the employer." Now it was redefined to include any person acting as "agent" of an employer. The reason for this change was that the NLRB had, as noted in the previous chapter, held employers liable for unfair practices when these practices had actually been engaged in by minor supervisory employees who sometimes acted without authority and even contrary to express instructions from their employer. Union leaders, however, charged that this change in terminology had gone too far, since it would make it difficult for the NLRB to take action against employers associations which engage in "open shop drives" or other unfair practices unless it could be proved that the employer had actually constituted the association his agent for this purpose.

The term "employee" also underwent important modifications. Most important, perhaps, was the removal of supervisors from the protective coverage of the Act. As we have seen in the preceding chapter, NLRB vacillated as to whether or not the Wagner Act protected the right of supervisors to form unions and engage in collective bargaining, but it had consistently held that the Act protected supervisors as employees from discriminatory practices by employers. Under the Taft-Hartley Act, however, supervisors were deprived of both of these protections and were therefore compelled to rely solely on economic weapons to achieve their objectives. Supervisors could still join unions, but employers were free to use any means to intimidate and forestall such organization. In practice, the Taft-Hartley Act dealt unions of supervisors a hard blow. After its enactment, contracts of the Foreman's Association of America with Ford Motor Company and other important firms were not renewed. However, the Act had little effect in printing and other industries in which it was customary to include foremen in unions of employees. The Act did, however, distinguish between straw bosses, lead men, set-up men, and other minor supervisory employees on the one hand, and supervisors vested with such genuine management prerogatives as the right to hire, fire, or discipline on the other. Only the latter were excluded from the Act.

How the Employer Was Affected

In form, the Taft-Hartley Act retained the five unfair labor practices specified in the Wagner Act, and therefore to a casual reader it might have appeared that the employer was still subject to the same restrictions as under the Wagner Act. Actually, however, newly added provisions in the Law afforded the employer a number of important new freedoms.

FREE SPEECH

The Taft-Hartley Act accepted in spirit employers' complaints on the "free speech" issue. A provision was included in the Act providing that the expression of any views, arguments, or opinions could not be considered evidence of an unfair labor practice unless there was an actual threat of reprisal or force or promise of benefit.

The protection afforded to employers by this provision was capable of acting as a serious deterrent to union organizing activity in those areas, such as parts of the South, where unions are not yet entrenched. The employer no longer had to remain neutral in a bargaining representative election and could actively campaign for "no union."[4] Thus, for example, it was not an unfair labor practice under the Act for an anti-union employer to compel employees to meet on company time to hear an attack on unions, as long as the address were phrased in terms of "opinion" rather than "threats."[5] This is a situation in which the cherished right of freedom of speech conflicts with the basic purpose of the Act to insure freedom to bargain collectively. The Taft-Hartley Act decided this conflict in favor of freedom of speech; yet at other points in the Act, union "freedom of speech" was restricted by prohibitions of the Act. For example, picketing by men carrying placards stating the union grievance is a form of "speech," but the courts have held that peaceful picketing in aid of a secondary boycott prohibited by the Act is not privileged as free speech.[6] Thus under the Taft-Hartley Act the courts further receded from the "free speech" doctrine of picketing.

REINSTATEMENT AND DISESTABLISHMENT

Section 10c of the Act prohibited the Board from ordering reinstatement or back pay in any case where the discharge was made "for cause." This provision was included, according to the majority report of the House Labor Committeee, in order to "put an end to the belief, now widely held and certainly justified by the Board's decisions, that engaging in union activities carries with it a license to loaf, wander about the plants, refuse to work, waste time, break rules and engage in incivilities and other disorders and misconduct." The basis for this charge does not appear to have been factual. President Truman, in his message vetoing the Taft-Hartley Act, expressed the fear that this clause would permit an employer to dismiss a man on pretext of a slight infraction of shop rules, even though his real motive was to discriminate against the man for his union activity. However, the NLRB has indicated that it will not allow this clause to be used as subterfuge. For example, in one case, a company reduced its force by 150 men because of economic conditions and included in this number a disproportionately large number of union members and participants in a recent strike. The Board held that these discharges could not be camouflaged as "for cause."[7]

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[4] *Wrought Iron Range Co.*, 22 LRRM 1050.

[5] *Babcock and Wilcox*, 22 LRRM 1057.

[6] *United Brotherhood of Carpenters and Joiners v. Sperry*, 15 Labor Cases 74,586.

The Taft-Hartley Act required modification in NLRB practice with regard to disestablishment of unions as bargaining agent. After passage of the Wagner Act, employers sought to satisfy the collective bargaining provisions by inducing employees to bargain through so-called company unions, unaffiliated with national unions. Frequently, such company unions were dominated by employers who paid their expenses and appointed their officers. Where this condition was found to exist, it was the practice of the Board to order disestablishment. An organization affected by such an order, no matter if its members and officers subsequently purged themselves of the taint of employer domination, would not thereafter be permitted recognition. By contrast, when an employer assisted an AFL union to get a majority in order to keep out a CIO union, the Board merely directed the offending employer to cease giving such assistance. The Taft-Hartley Act sought to compel uniform treatment of both unaffiliated and affiliated unions.

The NLRB policy under the Taft-Hartley Act was to disestablish a union, whether it was affiliated or unaffiliated, if the employer dominated it; or to cut off its bargaining rights temporarily, if the employer gave it illegal assistance.[8] While this policy was applied uniformly to both unaffiliated and affiliated unions, there was, in practice, little change from the earlier procedure under the Wagner Act, since affiliated unions were seldom found to be "dominated" and therefore the most that would be done to them was a temporary withdrawal of bargaining rights, subject to certification in a new election.

PROCEDURAL PRIVILEGES

Employers were also granted important procedural rights. Whereas previously employers could petition for an election only when confronted with demands for bargaining rights by two or more competing unions, they could now seek an election whenever a union made a demand for recognition. The grant of this privilege to the employer restrained premature claims of representation by unions attempting to organize a plant; for if the union failed to secure a majority vote in an election called by the employer, the Act prohibited the holding of another election for 12 months.

Another important right was the privilege to sue unions in federal court for breach of contract. Contrary to the grim prognostications of union leaders, there was no rush by employers to sue unions. The principal effect of this clause was to cause unions to omit any no-strike pledge from their contracts.[9]

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[7] *NLRB v. Sandy Hill Iron Brass Works*, 22 LRRM 2021.

[8] *Carpenter Steel Co.*, 21 LRRM 1232.

How Unions Were Affected

UNFAIR LABOR PRACTICES

The Wagner Act sought to overcome the disparity of bargaining power between employers and employees which existed at the time of its enactment. Therefore its restrictive provisions were all directed at employers, while unions were left free to engage in strikes, picketing, and various forms of coercion short of violence, in order to achieve organization of the workers. For this reason, the Wagner Act was criticized as being a one-sided law. The Taft-Hartley Act was designed to remedy this one-sidedness. It proceeded on the assumption that substantial equality of bargaining power had been achieved and that therefore both union and management should be subject to similar prohibitions regarding unfair practices. Those to which a union was subject were six in number, enumerated in Section 8b of the Act:

1. *Restraint or coercion.* It was made an unfair labor practice for a union to restrain or coerce employees in the exercise of the rights guaranteed them in Section 7. The latter guarantees the right to bargain collectively through representatives of the employees' own choosing and also the right to *refrain* from such activity (except where a union shop has been authorized by law). This section was intended to protect individual employees from the strong-arm tactics of union "goon squads" which, allegedly by threat and intimidation, sometimes secured a majority vote which did not reflect the preference of the workers. Union officials, however, argued that if this section was directed at physical assaults and threats of violence, state and local laws were already adequate to deal with this problem, whereas if it applied to conduct short of physical coercion, it could be used by anti-union employers to obstruct the organizing activities of unions. Moreover, NLRB secret ballot elections would appear to blunt the efforts of "goon squads."

2. *Illegal demands for union security.* It was made an unfair labor practice for a union to cause an employer to discriminate against an

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[9] The AFL, in a special bulletin to its constituent unions, advised: (a) that unions should refrain from including a no-strike clause in contracts, so as to avoid liability in suits over breach of such a clause: (b) that the contract should provide for arbitration of breach of contract cases to keep them out of court; (c) that the contract should provide for liquidated damages in the event of a breach so that the union will not run the risk of having a jury assess an exorbitant figure. See *Suggested Clauses for Collective Bargaining Contracts,* Bulletin No. 4, Office of General Counsel, American Federation of Labor.

employee for non-membership in a union unless there was a union security contract with the employer which was recognized under the Act. The closed shop was prohibited,[10] even though both employer and employees were satisfied with its operation. This prohibition, if enforced, could have had far-reaching effects upon collective bargaining relations, in view of the fact that prior to enactment of the Taft-Hartley Law, in the neighborhood of 4,800,000 employees worked under closed shop arrangements.[11] However, on the whole, closed shop industries have either ignored the prohibition or have circumvented it. This part of the law imposes no penalties and therefore is not brought into operation unless an individual charges an unfair labor practice.[12] Few such charges were made.

A union shop provision in a collective agreement was recognized under the Act if it allowed at least 30 days after hiring before new employees were required to become members of the union. However, before a union could negotiate such a security provision, it was required to fulfil a number of conditions: (a) file all required reports and affidavits; (b) receive designation as bargaining representative by a majority of employees; (c) show that at least 30 per cent of the employees in the bargaining unit wish to authorize the union to make a union security agreement; (d) secure a majority vote of all employees in the unit in favor of such a clause, in a specially conducted NLRB election.[13] Even if the union were able to satisfy all the above requirements and if an employer engaging in interstate commerce were willing to grant the union shop, its inclusion in a collective bargaining contract was prohibited under the Act if the particular state in which the business was located imposed more drastic conditions on union security clauses or forbade them entirely.[14]

If a labor organization succeeded in winning a union shop, the power of the union officials to dismiss a member from the union and hence from his job was circumscribed by a provision of the Act which made it illegal for a union or an employer to enforce a union security clause against anyone for any reason other than non-payment of dues or initiation fees. This clause was intended to curb the power of labor leaders who were able to stifle opposition by their power to discharge objectors from the union and thus, under a union shop contract, deprive them of their right to work in the plant. Union officials alleged that such abuses characterized only a few unions whereas this clause would weaken the disciplinary authority of *all* unions. For example, in a company where there was an established certified union with a union shop, this clause seemed to allow disaffected employees freely to engage in dual union organizing activities without fear of losing their jobs. Labor leaders also alleged that under protection of this clause, anti-union employers would be free to use spies[15] in the plant and inside the union without the union's being able to obtain their discharge.

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[10] Union hiring halls, commonly used by maritime workers, were also held unlawful under the Act. 22 LRRM 1289.

[11] *Monthly Labor Review*, **64**:766 (May 1947).

[12] S. H. Slichter, "The Taft-Hartley Act," *Quarterly Journal of Economics*, **62**:15–16 (February 1949).

[13] The union shop elections required by the Act were in most cases merely time-consuming and costly formalities. In 17,790 union shop elections held from August 1947 to June 1948, the union shop won in nearly all. S. H. Slichter, "The Taft-Hartley Act," *Quarterly Journal of Economics*, **62**:15 (February 1949).

[14] This provision ran counter to the usual principle that state laws are superseded by federal legislation on the same subject matter. The Taft-Hartley Act not only applied the state law, but declared further that the state law should apply to employers engaged in interstate commerce, as well as those whose business was purely local.

3. *Refusal to bargain.* It was made an unfair practice for a union to refuse to bargain collectively with an employer. This provision had a desirable effect upon those unions which had become so powerful that their "bargaining" activities consisted of presenting demands with a "take it or leave it" attitude.

4. *Illegal strikes and boycotts.* It was made an unfair labor practice for a union to engage in or to encourage any strike[16] or refusal by employees to use, manufacture, transport, work, or handle certain goods if any object of such action was any one of the following:

a. *To require an employer or self-employed person to join a union or an employer organization.* The purpose of this clause was to prevent unions from forcing independent businessmen, such as plumbers, bakery deliverymen, and others to join a union. Congress believed that the economic independence of these groups should be protected even though their hours of work and earnings might affect the standard of employees who work for hire in the same occupation.

b. *To force the employer or any other person to cease dealing in the products of another employer or to cease doing business with any other person.* This clause was directed at the so-called secondary strike or boycott. If employees in plant A strike to compel employer A to grant higher wages, or to grant a union shop, this is a direct strike; but if the employees, having a grievance against employer A, picket, or induce a strike in company B which uses the products of plant A, then a secondary strike or boycott is involved. For example, in one case,[17] which arose under this section, a union sought to compel a construction firm to discontinue the purchase of prefabricated houses from a manufacturer with whom the union had a dispute. The union was ordered to refrain from inducing employees of the contractor to cease work by picketing, by the use of "we do not patronize" lists, or by any other conduct. Such secondary action, used by unions to bring more effective pressure upon the primary employer was considered objectionable by Congress because it unduly widened the area of industrial disputes by interrupting the operations of employers only remotely connected with the chief cause of the controversy.

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[15] The Senate Civil Liberties Committee reported in 1939 that prior to the Wagner Act, labor espionage was the prevailing pattern of American industry. The Senate Committee found as a sample that of 1228 Pinkerton labor spies, 331 had infiltrated into unions; and of these at least 100 had held elective offices in unions, one even attaining the position of national vice-president of his union. See Statement of Hon. Elbert Thomas of Utah in United States Senate, April 30, 1947, *Congressional Record*, **93**:4403.

[16] The Act defined "strike" to include a concerted stoppage or slowdown.

The Act made no distinction between legitimate and illegitimate secondary boycotts. It included a refusal to handle "scab" products made in a non-union shop or in a shop in which a strike was in progress. Even where one non-union employer threatened the working standards of an otherwise fully organized industry, a refusal on the part of employees in the organized plants to handle or process goods intended for or coming from the non-union plant would violate the Act. This section, of course, was an amendment to the Norris-LaGuardia Act, as were other portions of the Taft-Hartley Act.

c. *To force or require an employer (including the employer of the strikers) to recognize or bargain with one union if another union is the certified bargaining agent; or to force another employer (not the employer of the strikers) to recognize an uncertified union.* This clause was intended to protect employers from strikes by an uncertified union to compel the employer to violate the law by dealing with it rather than with another union already properly certified. As has been pointed out in the previous chapter, under the Wagner Act, the employer and employees in such a situation were placed in a dilemma from which the courts could offer no escape by reason of the Wagner Act–Norris-LaGuardia Act conflict. However, the Taft-Hartley Act declared such strikes to be illegal and made it mandatory for the NLRB to seek injunctive relief in the courts if, after preliminary investigation, there was reason to believe that the union was engaging in a strike prohibited by this section.

d. *To force or require an employer to assign particular work to employees in one union or craft, rather than to employees in another union or craft.* This clause was intended to outlaw the so-called jurisdictional strike. Such strikes, growing out of controversies as to which craft has the right to perform a particular job, were particularly common in the construction industry and evoked widespread public criticism. As a direct result of the enactment of the Taft-Hartley Law, the building trades unions set up machinery to adjust jurisdictional disputes among the various crafts.

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[17] *Sperry v. United Brotherhood of Carpenters*, 21 LRRM 2244.

A union which engaged in any of the activities banned in the above four situations committed an unfair labor practice and rendered itself liable in damages to anyone whose business or property was injured as a result of the strike. Moreover, when a charge was filed alleging that a union was engaging in activities under (a), (b), or (c) above, it was made mandatory that the Board seek an injunction against the union, if the Board had reasonable cause to believe the charge was true.[18] In the case of jurisdictional disputes, however, the Board had to hear and decide such cases itself unless within 10 days after the charge had been filed, the parties agreed to voluntary adjustment. The mandatory injunction provision mentioned above did not apply to jurisdictional disputes, but the NLRB could seek an injunction in situations where such relief was appropriate.

5. *Excessive initiation fees.* It was made an unfair labor practice for a union which had a union shop agreement to charge membership fees in an amount which the Board found excessive or discriminatory under all circumstances. Little, if any, effect was given to this provision.

6. *Featherbedding.* It was made an unfair labor practice for a union to "cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed." This clause was sometimes referred to as the "anti-featherbedding" provision, but actually its scope was much more limited than the practice of make-work rules which is ordinarily encompassed within the term "featherbedding." If some work were performed in return for the compensation—even though it were mere standing around during a recorded broadcast—then the statutory requirement of "services which are not performed" was not satisfied and the provision was not applicable.

Loyalty Affidavit

One of the most controversial provisions of the Act was directed at Communist officers who have been in power in a few American unions. Section 9h of the Act disqualified a labor organization both as a bargaining agency and complainant under the Act unless there was on file with the Board an affidavit executed "by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate,"[19] that he is not a member of the Communist Party or of any other organization that believes in overthrow of the government by force.

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[18] This injunctive procedure played a relatively minor role in the operation of the Taft-Hartley Act. From August 1947 to June 1948, NLRB General Counsel requested the courts to issue only 21 injunctions or temporary restraining orders. See *Thirteenth Annual Report of the National Labor Relations Board* (1948), p. 17.

This provision evoked considerable criticism, both from unions and other sources, on the ground that it was unconstitutional[20] to discriminate on the basis of membership in the Communist Party when that party was a legal organization entitled to a place on our electoral ballots. Moreover, it was questioned whether the most effective method of driving Communists from unions was to deny locals all over the country the protection of the Act simply because one officer in the parent international refused to sign the affidavit. Consequently, a number of the largest and strongest unions—among them the United Steelworkers (CIO), International Typographical Union (AFL), and the United Mine Workers (unaffiliated)—declined, as a matter of principle, to comply with this provision. Such non-compliance meant that these unions could not seek the aid of the Board in requiring an employer to bargain with them, nor could they be certified in a NLRB election. However, these unions were sufficiently well entrenched in their respective industries so that, by and large, employers did not refuse to bargain with them on the ground of their non-compliance with this affidavit provision.

Non-compliance by many Communist-dominated unions did, however, prove very detrimental to these organizations. The non-complying United Electrical, Radio and Machine Workers of America (CIO) and other left-wing CIO unions lost thousands of workers both to other CIO unions, such as the United Automobile Workers, and to AFL rivals. Severe membership losses were also suffered by the International Union of Mine, Mill and Smelter Workers, the United Farm Equipment and Metal Workers of America, and the United Office and Professional Workers of America, all left-wing CIO unions. After several defections, the latter two organizations complied technically with the Act by removing officers with direct Communist connections, electing alleged "stooges" in their places, and placing the former officers in appointive jobs which held the real power, but which did not come within the purview of the affidavit. This gave these unions access to the NLRB once more.

The loyalty affidavit provision of the Taft-Hartley Act clearly strengthened the hand of non-Communist elements in unions, and aided the reaction against Communists which was attributable to the realization of union members that Communists in unions sought only to use labor unions as instruments to aid the cause of a foreign power. Nevertheless, the method of denying a group access to the NLRB appeared questionable to many observers who had no sympathy with Communists. One way or another, however, the ultimate responsibility for eliminating subversive elements from the labor movement rested and continues to rest with the union membership itself.

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[19] The NLRB held that this requirement was satisfied if a local and its international complied with the section, even though all the officers of a parent federation like the AFL or CIO had not filed. *Matter of Northern Virginia Broadcasters, Inc., Radio Station WARL*, 75 NLRB No. 2 (1947).

[20] On April 13, 1948, a special Federal Court in a two to one decision ruled that the Taft-Hartley Act could constitutionally require union officers to swear that they were not Communists as a condition of using the facilities of the NLRB. *National Maritime Union v. Herzog*, 21 LRRM 2648.

Reports and Financial Accounts

In order to make use of the machinery of the Board, unions were also required to file with the Secretary of Labor copies of their constitutions, by-laws, reports showing salaries of officers above $5000, initiation fees, and annual financial statements. Unions are big business, collecting millions of dollars a year in the form of dues and fees. Such safeguards as requiring filing of union financial reports therefore seem desirable. Unfortunately, the unions which do not voluntarily file financial reports are concentrated in the buildings and amusement trades and are so well entrenched that they have little need to use the NLRB, and hence do not have to comply with such provisions.

Restrictions on Political Contributions

The Act made it unlawful for any labor union to make a contribution or expenditure in connection with any election to any Federal political office. The prohibition as to contributions corresponded to a similar prohibition applicable to corporations under the Corrupt Practices Act. Addition of the broad term "expenditures," however, in the restriction applicable to unions, raised doubts as to the constitutionality of the provision. The Supreme Court has held that the ban of this section does not apply to expenditure of union funds in publishing the *CIO News* which advised members to vote for certain candidates in a Congressional election.[21]

Contributions to Union Welfare Funds

In recent years, health and welfare funds supported in whole or in part by employer contributions have become increasingly popular as a subject of union-management negotiation.[22] Such funds require the collection of very large sums of money. Consequently, Congress felt the need for legislation which would hold union leaders to strict accountability in the administration of such sums. Section 302 of the Act accomplished this purpose by permitting welfare funds maintained by employer contributions only when the payments are held in trust and the fund is administered jointly by employer and employee representatives, with neutral persons available to settle possible disputes. However, funds in existence prior to January 1946 were exempted.

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[21] *U. S. v. CIO*, 22 LRRM 2194.

[22] By mid-1948, more than three million workers were covered by such plans. See Chapter 9.

How the Individual Worker Was Affected

A major objective claimed by the framers of the Taft-Hartley Act was to protect individual employees from the arbitrary power wielded by some labor leaders. Consequently, a number of important new privileges were granted to employees with corresponding limitations on unions, on the theory that the actions of the latter have not always been truly representative of the will of the workers in the collective bargaining unit.

ELECTIONS

The Taft-Hartley Act made a number of important changes in election procedure. Under the original Wagner Act procedure if two or more unions were on the ballot in an election to choose a bargaining representative, the employees voting in a "run-off" election did not have an opportunity to cast a negative vote (i.e., no union) in the run-off, unless the no-union vote had received a plurality of votes cast in the first election. In other words, the employees were limited in the run-off election to a choice between two unions, even though one of these unions might have run in third place. Later, the NLRB changed this procedure by requiring the two highest choices to be placed on the run-off ballot, so that the "no-union" choice could appear on the run-off ballot even if it had not received a plurality of votes in the first election. The Taft-Hartley Act made this procedure a matter of law.

The Act also gave employees the right to seek elections to decertify a bargaining representative which no longer represented the majority of workers. In 154 decertification elections held under the Act, the bargaining representative was decertified in 105[23]—indicating that in many cases, unions, in the course of time, cease to represent the will of the majority of workers.

BAN ON COMPULSORY CHECK-OFF

The Act prohibited the compulsory check-off, the method by which union dues are deducted by the employer from the worker's wages and paid directly to the union treasury. The check-off of membership dues was made lawful only where individual employees had given a written assignment of wages for not longer than one year, or for the duration of the applicable union contract, whichever was shorter. This section had little effect.

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[23] S. H. Slichter, "The Taft-Hartley Act," *Quarterly Journal of Economics*, **62**:17 (February 1949).

BARGAINING UNIT PROBLEMS—PROFESSIONALS, CRAFTS, GUARDS

Section 9b of the Act declared that the Board shall not decide that any unit including professional and non-professional workers is appropriate for collective bargaining unless a majority of such professional employees votes for inclusion in such unit. This section was adapted at the request of various professional societies. In actual fact, it wrote the NLRB's "Globe" doctrine into law in so far as professional employees were concerned.

The Act also provided that the Board may not decide that a craft unit is inappropriate on the ground that an industrial unit had already been established by a prior Board determination, unless a majority of employees in the proposed craft unit vote *against* the craft unit. This clause was criticized by CIO officials who argued that it could be used to permit various splinter craft groups to break off from established industrial unions. These fears proved groundless, however, and in actual practice this provision produced little change in NLRB procedure with regard to representation of skilled crafts. The NLRB wisely interpreted this provision as prohibiting it from using a prior unit determination as the *sole* ground for decision as to the appropriateness of a craft unit, but as still giving it discretion to include skilled workers in a larger industrial union where the work of the skilled group is so integrated with that of production workers that a separate unit would be inappropriate.

The Act also provided that no union could be certified as a bargaining representative if it included both guards or watchmen and other employees or was affiliated with an organization which included both groups. This section accepted *in toto* the arguments of employers that the same union should not be permitted to represent both guards and the rank and file. As a result, unions which included both guards and others had to disaffiliate locals of guards, which under the Taft-Hartley Act could be represented only by independent unions, unaffiliated with the AFL or the CIO. This weakened somewhat the union movement among guards.

DISCRIMINATION AGAINST MINORITY GROUPS

The Act provided (Sec. 8a-3) that an employer was not justified in discriminating against an employee for non-membership in a labor organization if he had reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members. At first glance, this appears to mean that a union shop contract could not be applied to Negro employees, unless Negroes were fully and equally admitted with whites to union membership. However, another section (8b-1) provided that a union shall have the right to prescribe it own rules with respect to the acquisition or retention of membership. Moreover, the Conference Report expressly declared that the Act did not disturb arrangements in which Negroes were relegated to an auxiliary local.[24] Thus it appears that the Act merely required a union to apply its admission rules—whatever they might be—uniformly to all applicants. This provision had little or no effect on existing discriminating membership policies of unions.

OTHER PROCEDURAL SAFEGUARDS

Among other important rights given to individual employees to strengthen their positions relative to the union was the power to sue the union for damages resulting from an illegal strike. Also, the employee was given the right to present grievances directly to his employer and to have such grievances adjusted without the intervention of the union representative. The adjustment could not be inconsistent with the terms of the collective bargaining agreement, and the union was given the right to have its representative present at the adjustment. Such individual settlements do serve, however, to weaken the union and are not conducive to stable industrial relations.

How the Public Was Affected by the Law

One of the major reasons for enactment of the Taft-Hartley Act was the general recognition on the part of the public and lawmakers that some means had to be devised to protect the community from stoppages of the flow of essential commodities and services such as characterized the wave of strikes in 1946. The Wagner Act itself had contained no prohibition against strikes of any kind; instead, it provided a peaceful alternative[25] to the costly strikes which had been fought over the denial of basic rights of union recognition. In 1937, 60 per cent of the workers on strike were involved in organizational disputes. In 1945, only 22 per cent of the strikers were out on organization strikes.[26] Thus the Wagner Act was successful in reducing this particular form of work stoppage. At the same time, however, strikes over economic issues—wages, hours, and working conditions—increased in importance. Moreover, industry-wide bargaining led to walkouts involving an entire industry instead of merely one plant. Thus, the same number of strikes in 1946 as in 1937 produced four times as many man-days lost in the later year. The Taft-Hartley Act attempted by a number of procedures and prohibitions to narrow and restrict the use of the strike weapon by organized labor.

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[24] The Conference Report refers specifically to the case of *Larus and Brother Co.*, 62 NLRB 1075 (1945), as an example of an arrangement not disturbed by the Act. Any other interpretation would have alienated Southern Democrats who were among the Taft-Hartley Act's most ardent supporters.

[25] From 1936 to 1945, 10,058,872 employees resorted to the orderly procedures of the Act in 32,615 separate representation cases in order to establish their rights to recognition. *Matter of Packard Motor Car Co.*, 61 NLRB 14 (1945).

[26] *Eleventh Annual Report of the National Labor Relations Board* (1946), p. 2, note 1.

PROHIBITED STRIKES

Certain types of strikes deemed unduly oppressive to employers and the public were outlawed. These have been considered earlier in this chapter and included secondary strikes and boycotts, jurisdictional disputes, and strikes to upset the certification of a rival union. Any person injured in his business or property as a result of such unlawful strikes could bring suit for damages against the offending union.

Strikes against the federal government were likewise forbidden and any individual employed by the United States who went on strike was subject to immediate discharge and loss of civil service status. We shall discuss this section in Chapter 33.

Strikes called in violation of no-strike clauses in collective bargaining agreements were not prohibited, but the Act rendered the union liable to the employer for damages due to the breach of contract. It was hoped that imposition of such financial liability upon unions would make for stricter observance of such clauses and thus lessen the number of work stoppages. The effect, however, was a general withdrawal of such no-strike commitments from bargaining agreements.

NATIONAL EMERGENCY STRIKES

Finally, the Taft-Hartley Act established procedure to govern so-called "national emergency" strikes. This procedure, which is discussed in Chapter 29, did not, however, forbid such strikes, but merely provided for their postponement.

COOLING-OFF PERIODS

The Act also required that at least 60 days' notice must be given by unions and employers desiring to terminate or modify an existing contract. Within 30 days following such notice, if no agreement had been reached, a second notice was to be given to the Federal Mediation and Conciliation Service and to whatever mediation agency there was within the state.

The difficulties involved in this procedure were discussed in Chapter 29. Criticism has been directed in addition at the sanctions imposed by this section. Employees who walked out in violation of the cooling-off period—the 60 days prior to contract termination—lost their status as employees under the Act and therefore were deprived of any protection against unfair practices by an employer. Thus an employer desiring to get rid of certain union officials might be able to provoke a walkout during the cooling-off period and could then discharge the officials who participated. In contrast to the drastic sanction imposed on employees, an employer who violated this section by locking out his employees during the cooling-off period was subject only to a cease and desist order.

Appraisal of the Taft-Hartley Act

Whether the Taft-Hartley Act is a "good" or a "bad" law depends in large measure upon the standard by which it is judged. If it is deemed desirable to afford greater freedom and privileges of self-determination to the individual worker, then it would seem that the Act constituted a rather hesitant advance in labor legislation. On the other hand, if one believes that progressive social policy requires strengthening labor organizations on the theory that all but a few unions are still at a disadvantage in bargaining with employers, then the various restrictions imposed upon the activities of unions appear less desirable.

Standards, therefore, affect one's view of the Act and such standards frequently reflect the social bias of the individual. However, one standard is at hand which lends itself to a fairly objective appraisal. That is the extent to which the Act facilitated the process of effective collective bargaining.

WAYS IN WHICH THE ACT ENCOURAGED EFFECTIVE COLLECTIVE BARGAINING

Effective collective bargaining may be defined as bargaining which in general represents the will of the majority of workers. The decertification procedure provided by the Taft-Hartley Act enabled employees to rid themselves of a union which because of corrupt leadership or other causes no longer represented the majority of workers. Likewise, the Communist affidavit requirements may have served to lessen industrial disputes which reflected not the bona fide grievances of workers, but rather the planned intrigues of Communist officials. The prohibition against the closed shop and restrictions on the union shop were intended to eliminate practices, such as the selling of jobs through issuance of work permits, which benefited the union bosses rather than the union membership, but these provisions were largely misguided.

Effective collective bargaining assumes also a balance of power between labor and management. Under the Wagner Act, however, the balance of power in some industries had been so turned in labor's favor that individual employers had no choice but to accept the union's demands. The Taft-Hartley Act sought to remedy this situation by imposing an obligation to bargain upon both the employer and the union. Moreover, on the premise that effective collective bargaining requires responsible parties to the agreement, the Act made unions subject to court actions for breach of contract. But this premise ignored the fact that sound industrial relations are not built by running to the courts; and it further ignored the fact that a democratic union cannot be fully responsible for the acts of its members.

Effective collective bargaining assumes that the democratic privilege of self-determination of wages, hours, and working conditions will be reasonably exercised so as not to inconvenience the public by widespread work stoppages. Such union devices as the secondary boycott, jurisdictional strikes, and industry-wide strikes in essential industries unnecessarily burden the public. Therefore the Taft-Hartley Act narrowed the use of the strike weapon within limits deemed consistent with the public interest. By failing to provide an effective mechanism for handling emergency strikes and by outlawing all secondary boycotts, the Act again was not selective in applying restrictive measures.

WAYS IN WHICH THE ACT IMPEDED EFFECTIVE COLLECTIVE BARGAINING

As of November 1949, actual experience under the Taft-Hartley Act is limited to a comparatively short period during most of which employers were inclined to use with caution the new powers given them by the Act. Therefore, it is necessary to supplement this experience with a consideration of the effect which the Act may well have upon collective bargaining in periods when labor's bargaining power is weakened.

The Act enabled employers to delay peaceful determination of a bargaining representative through the NLRB machinery and therefore encouraged unions to strike to obtain recognition. An employer bent on delaying an election for certification of a bargaining representative could delay proceedings by charging the union with unfair labor practices, and since most organizing campaigns usually involve some "high pressure" salesmanship by union advocates, a prima-facie case of coercion frequently could be made out. Another handy weapon to delay an election which was afforded the employer was to require that the union local prove that every single member of the international to which it belonged had received a copy of its financial report.

The Act saddled the Board with the costly and useless task of holding union shop elections in plants where it was a foregone conclusion that the union shop would be authorized. In 17,958 such elections held from

August 1947 to June 1948, the union shop was authorized in 98 per cent.[27] The time required to hold these elections contributed to lengthy delays in disposition by the Board of other cases. And by creating a bifurcated agency, the Act upset the NLRB's procedure without improving it.

The Act was intended to restore the balance of power in collective bargaining relations. But Congress had in mind the circumstances which exist in a few highly organized industries, without fully recognizing that in some areas organization is still in an incipient state and that in such areas the Act gave an anti-union employer power to prevent the emergence of effective collective bargaining. Particularly potent in this respect were the provisions which guaranteed the employer "free speech,"[28] gave him the power to sue a union (and thus weaken it financially), and to charge it with unfair labor practices in organizing. Under other provisions of the Act, an employer could invite a walkout over economic issues, and then be free to replace the strikers with non-union men. The Act stated that the strikers could not vote in an election, but the strikebreakers were given this privilege. Anti-union employers may therefore be able to use a strike over wages to change the bargaining representative in their plants.

The Act used as a sanction in a number of provisions the deprivation of rights under the Act. Thus, for example, employees who struck in violation of the cooling-off period provisions and unions which failed to sign non-Communist affidavits were forbidden to use the machinery of the Board. Obviously, however, these men and these unions would continue to take part in industrial relations and their unprotected status only invited attacks by anti-union employers. If the objective of the Act was equality between management and unions, sanctions for enforcement should not have been put in the hands of employers. Such a policy invites industrial unrest, rather than compliance with the Act.

LABOR'S REACTION

Finally, it should be noted that the Taft-Hartley Act was written largely by those generally antagonistic to organized labor. The "get labor" atmosphere produced an emotionally charged bill, which literally made labor unionists fighting mad. The charge that the Taft-Hartley Act was a "slave labor act" is ridiculous. Labor unionists, however, actually reacted as if their charge were true. The fact that the sins of unions were in part responsible for the Taft-Hartley Act did not alter the emotional ferver. One of the least intended, but most important results of the Taft-Hartley Act was to arouse unions to the fighting pitch which enabled them to aid so effectively in President Truman's election victory of 1948. The Taft-Hartley Act thus woke labor unions from a lethargic dependence on government in which the pre-World War II and the ensuing war years had cast them.

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[27] *Thirteenth Annual Report of the National Labor Relations Board* (1948), p. 2.

[28] In one case, a Georgia company passed out sample ballots to its employees and a foreman showed his crew how to mark them against the union. About 90 per cent of the employees were illiterate Negroes who had never voted before. On a charge of unfair practices brought by the union, the NLRB decided that there had been no violation of the Taft-Hartley Act and that the anti-union sample ballot merely reflected "views" already expressed by company officials in speeches that were entirely legal. *Murray Brothers*, 75 NLRB No. 15 (1947).

32

State Labor Relations Legislation

Between 1937 and 1945, seven states—Utah, Wisconsin, New York, Pennsylvania, Massachusetts, Rhode Island, and Connecticut—passed legislation modeled on the Wagner Act. Two years later Wisconsin and Pennsylvania amended their "Little Wagner" acts to lessen the protection given employees in choosing unions and to place restrictions upon certain employee and union activities similar to the provisions of the Taft-Hartley Act. Also, in 1939, Minnesota and Michigan adopted laws similar to the amended Wisconsin and Pennsylvania statutes, as did Colorado and Kansas in 1943. Finally in 1947, Utah amended its "Little Wagner" law on the Wisconsin model, and Massachusetts made modifications in its legislation based upon the unanimous report of a tripartite labor-management-public committee appointed by the Governor.[1]

Besides these laws, most other states enacted labor legislation between 1939 and 1948 which was aimed at restricting union activity in one manner or another. Most of these laws have not been applied, although a few have been tested in the courts. Following the 1948 national elections, the anti-union tide which had run since 1948 was reversed and some of this restrictive legislation was repealed.

Eight states[2] have enacted "fair employment practice" legislation aimed at curbing discrimination in employment because of race, color, sex, or national origin. Since such legislation may affect greatly the policies of employers and unions, it is also discussed in this chapter.

Jurisdiction of State Labor Acts

The jurisdiction of state labor relations acts includes (1) intrastate industries; (2) industries over which the National Labor Relations Board has ceded jurisdiction because of budget or other administrative provisions; and (3) areas of regulation concerning which a state law exists, but no federal law has been enacted.

Intrastate industries (exclusive of agriculture, which is generally exempt from both state and federal labor legislation) include an estimated 13,000,000 workers[8] employed in laundries and other such service trades, local transportation and utilities, retail stores, etc. Approximately 26 per cent of the labor force is so engaged.

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[1] See C. C. Killingsworth, *State Labor Relations Acts* (Chicago, University of Chicago Press, 1948), pp. 1-3. The data in this chapter are based primarily on this excellent book.

[2] New York, New Jersey, Massachusetts, Connecticut, Rhode Island, New Mexico, Washington, and Oregon.

Since its inception, the National Labor Relations Board has ceded jurisdiction to state agencies over various industries which are technically in interstate commerce but are also local in character. An example in New York has been the financial and brokerage industry which has been handled by the New York State Labor Relations Board, although the NLRB clearly had jurisdiction. The NLRB adopted such arrangements, either because its budget was limited or because it believed that state agencies could best deal with primarily local industries.

The Taft-Hartley Act restricted NLRB state board coöperation, despite the fact that it purported to encourage it. This was true because, although the Taft-Hartley Act required the NLRB to cede jurisdiction over localized industries to state agencies, it permitted the NLRB to waive its authority only where the state law was consistent with the Taft-Hartley Act. Since, for example, New York's law retained Wagner Act principles, the coöperation between the New York Board and the NLRB was thereby restricted.

The third area of state jurisdiction arises when the state enacts a regulatory measure covering problems concerning which the federal government has taken no position. Thus state laws regulating the internal affairs of unions or outlawing union race discrimination have been ruled constitutional by the United States Supreme Court because the federal government has not asserted jurisdiction over these problems. Such state laws operate in interstate as well as in intrastate commerce. Likewise, in areas where federal law specifically cedes prime authority to the states, such as the provision in the Taft-Hartley Act making state authority paramount on regulation of closed shop and other compulsory union provisions, state authority prevails in interstate commerce.

On the other hand, the federal courts have rebuffed attempts by state labor relations agencies to assert jurisdiction over plants engaged in interstate commerce where the NLRB has previously taken jurisdiction. Thus, a representation election, held by the Wisconsin board in a plant where the NLRB had previously certified a union, was declared null and void. Similarly, the New York board's attempt to certify a bargaining agent for foremen in an interstate plant when the NLRB was refusing to certify bargaining agents for foremen was overturned. And the Utah board was enjoined from holding a representation election in an interstate plant where the union involved had not complied with the anti-Communist affidavit requirement of the Taft-Hartley Act.

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[8] The estimates are those of C. C. Killingsworth, *State Labor Relations Acts* (Chicago, University of Chicago Press, 1948), p. 4.

The "Little Wagner" and "Little Taft-Hartley" Acts

EMPLOYER UNFAIR LABOR PRACTICES

Both the "Little Wagner" Acts and those which more closely resemble the Taft-Hartley Law follow the unfair labor practice provisions of the Wagner Act. Some include in their proscriptions specific prohibitions against black list, employer espionage, and other matters which have been covered within the Wagner Act's general restriction on restraint or coercion of employees for union activity.

On the other hand, two of the state laws, Minnesota and Michigan, do not specifically prohibit the employer from restricting or coercing employees, and the revised Wisconsin, the Minnesota, and the Colorado statute limit the protection of workers against company unions.

In enforcing unfair labor practice provisions, the New York courts permit the New York State Labor Relations Board to draw inferences from hearsay, and make other variations from accepted courtroom procedure along the lines of the procedure utilized by the NLRB under the Wagner Act. In most of the other states, however, the state courts have been more restrictive and have forced the state agencies to adhere more closely to court procedure.

Most of the state laws permit the closed or union shop. The 1947 amendments to the Massachusetts law, however, require the Massachusetts Labor Relations Commission to scrutinize discharges initiated by unions pursuant to compulsory membership agreements. Although the amended Wisconsin law prohibits compulsory membership agreements with a company-dominated union, it does permit the employer to sign such an agreement with a union which does not represent the majority of the workers, a provision which is obviously inconsistent with the freedom of choice which that act purports to protect. The Kansas statute is somewhat similar.

The Pennsylvania statute permits employers to sign compulsory membership agreements only if the union is free from company discrimination, is the majority choice of the employees, admits to membership all employees eligible, and does not discriminate because of race, color, creed, or political beliefs. Wisconsin and Colorado require unions who are parties to compulsory membership contracts to admit all present and, apparently, all future employees. In addition, both Wisconsin and Colorado require special elections and approval, by three-fourths of the membership in Colorado and by two-thirds in Wisconsin, before the compulsory membership agreement can be signed. The Wisconsin provision, incidentally, was the source of the similar election requirement in the Taft-Hartley Act.

All these restrictions on the closed shop except those in Massachusetts, like those in the Railway Labor Act, are directed in actual fact primarily against the employer, rather than against the union, since the employer commits an unfair labor practice by signing an illegal compulsory membership agreement, or by discharging an employee pursuant thereto. Perhaps this accounts for the fact that only in Wisconsin have there been actual cases brought to hearings under these provisions. The Massachusetts law attempts to surmount this difficulty by subjecting discharges made pursuant to the use of closed shops to arbitration.

All of the Little Wagner Acts authorize the enforcement agency to order an employer to reinstate a worker who has been illegally discharged or otherwise discriminated against because of union activities, but only four of the seven Taft-Hartley type laws do so. In a number of cases in which workers have been discharged pursuant to an illegal closed shop agreement, the Wisconsin Employment Relations Board ordered the union to reimburse the worker with back pay, but the Wisconsin Supreme Court overturned the rulings on the grounds that the Board had no power so to penalize the unions.

The Michigan, Minnesota, and Kansas acts make no provisions for either reinstatement or back pay. This omission reduces to a bare minimum the protection given to employees and to unions.

All of the "Little Wagner" Acts and again only four of the Taft-Hartley type require the employer to bargain with the duly chosen representative of his employees. Colorado, however, permits the employer to refuse to bargain for a closed shop. Kansas, Michigan, and Minnesota do not require the employer to bargain, thus further reducing the protection given employees and unions.

Finally, in all states but Kansas and Michigan, a special agency is delegated authority to administer the labor relations law. In these two states, administration is left to the courts where, as under the Railway Labor Act, the full burden of the litigation is on the aggrieved party. As a result, the unfair labor practice provisions of these two states are virtually inoperative.

UNFAIR LABOR PRACTICES OF EMPLOYEES AND UNIONS

The unfair labor practices in the "Little Taft-Hartley" laws which are directed against employees and unions may be divided into four categories.

1. Prohibitions of violence and similar activities, which were almost universally unlawful before the passage of the labor relations acts—for example, sit-down strikes, sabotage, and mass picketing.

2. Restrictions on peaceful tactics, such as picketing and organizing campaigns.
3. Limitations on union objectives which make illegal all efforts to achieve a forbidden objective, such as a make-work rule.
4. Regulations of the internal affairs of unions, such as financial matters, election procedure and eligibility for union office.[4]

Only in Wisconsin has there been any detailed experience with these proscriptions. In the other states, the machinery against unfair union practices has not been utilized except in a very few cases. And in Wisconsin the results have not been conspicuously successful, largely because the damages alleged have already been sustained long before the sanctions or remedies can be brought to bear. It will be recalled that the Taft-Hartley Act gave prior treatment to and provided that the NLRB must seek an injunction in boycott cases. It seems likely that this provision was influenced by the experience under the Wisconsin law.

In making violence and other already unlawful acts unfair labor practices, the Little Taft-Hartley laws provide new procedures and penalties to control such conduct. The laws which are enforced by administrative agencies can be utilized to restrain violence or illegal picketing; or the protection of the law may be withdrawn from unions. This latter is a severe penalty, for it leaves the employer free to commit any and all unfair labor practices against the union, and this amounts to a doctrine that two wrongs make a right. Moreover, in case the same penalty is invoked against the employer, he has little to lose since he can apply for police protection against activities which were always unlawful.

The second group of state employee unfair labor practices restricts activities such as peaceful picketing, boycotting, and jurisdictional strikes which would otherwise be lawful. As we noted in Chapter 27, the extent to which the states may regulate peaceful picketing is not clear, although it is certain that some regulation is permissible, and that the Supreme Court appears to be retreating from the extreme view that picketing is merely a means of communication.

Kansas makes it unlawful to strike, picket, boycott, or otherwise engage in concerted activity for the purpose of a jurisdictional strike. Minnesota provides that if, upon due notice, the unions do not cease a jurisdictional strike and determine the issue peacefully, the governor may appoint a referee and force the matter into compulsory arbitration. This was undoubtedly the provision upon which the similar Taft-Hartley Act section was modeled.

Wisconsin and Colorado make it an unfair labor practice for a union to refuse to accept a final and binding award of the state labor relations agency, an arbitration tribunal, or a court. This has had the effect of outlawing picketing or boycotting to upset labor board certifications. In 1947, Massachusetts specifically amended its law to prevent union defiance of labor board certifications. In New York, the state courts have ruled that the state anti-injunction law, which is modeled on the Norris-LaGuardia Act, does not limit the right of the courts to enjoin picketing which is aimed at nullifying a state labor board certification. Hence, New York has felt no need to legislate on this subject.

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[4] C. C. Killingsworth, *State Labor Relations Acts* (Chicago, University of Chicago Press, 1948), pp. 42–43.

Minnesota, Wisconsin, and Colorado provide that strikes in violation of collective agreements are unfair labor practices. In addition, as noted in Chapter 29, most of the states which have legislation similar to the Taft-Hartley Act require strike notices and strike votes prior to the calling of the strike.

Kansas, Wisconsin, Utah, Minnesota, and Colorado have outlawed nearly all types of primary or secondary boycotts. Utah, Wisconsin, and Minnesota exempt sympathy strikes in support of employees in similar occupations working for other employers in the same type work, but the other states even omit these provisions. These state laws, combined with the provision in the Taft-Hartley Act, effectively outlawed picketing in support of boycotts in most industries.

Finally, Wisconsin, Colorado, Utah, Michigan, Kansas, and Pennsylvania prohibit employee interference or coercion in the right of employees to join or not to join unions.

The most important regulation classified in the third group—restrictions on union objectives—is that of compulsory union agreements. Since this applies as an unfair labor practice to employers as well as to unions, it has already been discussed above. In addition, however, three states—Wisconsin, Colorado, and Pennsylvania have, like the Taft-Hartley Act, outlawed the automatic or general check-off of union dues and permit only the voluntary check-off after the individual has authorized it in writing.

Two other restrictions are contained in this type of legislation. The first is the as yet unused provision in the Colorado Act which makes it an unfair labor practice for a union to require the hiring of unnecessary employees. A similar provision was later placed in the Taft-Hartley Act. The other is the restrictions in the Wisconsin and Utah laws which make it an unfair labor practice for an employer to bargain with a minority union. This is applicable not only where there is a majority union but also where there is a union to which a minority of the employees belong, but no majority union has been certified. Hence, it goes beyond the Wagner or Taft-Hartley Acts.

The final group—regulation of the internal affairs of unions—includes provisions apparently designed to restrict union activity couched in terms of union democracy (Kansas and Colorado); those which are genuinely designed to promote union democracy (Massachusetts and probably Minnesota); and those which are difficult to classify (Wisconsin and Pennsylvania).

Kansas requires registration, licensing of business agents, and many other details which are designed to burden unions and which are of questionable constitutionality, since conceivably they could be utilized to prevent unions from operating altogether. Colorado enacted an even more drastic regulatory law, which included compulsory incorporation for unions, but this section of the statute was declared invalid by the state supreme court.

Wisconsin's statute requires unions to provide financial reports in writing to all members, but makes no penalty for violations. Kansas prohibits the collection of dues, assessments, etc., in excess of those authorized in the constitution of the union. Colorado's financial requirements are severe in that they require the state industrial commission to pass upon initiation fees and dues and to change or to alter any fees if the commission thinks such changes are proper. Conceivably, the industrial commission could cut off all revenues of the union, but the provisions cannot now be enforced, .since they were included in the compulsory incorporation section which was held unconstitutional.

Kansas, Wisconsin, and Colorado regulate union elections. Kansas merely makes it an unfair labor practice to prevent or prohibit an election of officers. Minnesota's unique union democracy law[5] regulates the details of elections, providing that they must be held according to the union constitution but at least every four years, with secret ballot, and disqualifies the union as a bargain representative in case of violation. Thus far, however, no enforcement proceedings have ever been instituted. Colorado's regulations, which were the most drastic, have been rendered unenforceable by the court decision in the compulsory incorporation case.

Pennsylvania, Wisconsin, Colorado, and Massachusetts regulate union membership policies in cases where the union holds a closed shop or other form of compulsory membership contract. Pennsylvania prohibits discriminatory membership policies because of race, color, creed, or political affiliation for such unions. Wisconsin and Colorado require that a union under such an agreement must not unreasonably refuse to accept any employee of the employer as a member. The Massachusetts law of 1947 provides that no compulsory membership agreement can be applied to an employee who is not eligible for full membership and voting rights in the union. In addition, the employer cannot discharge such an employee except under restricted conditions, and the employee can appeal to the

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[5] This is a separate statute from the Minnesota labor relations act.

Massachusetts Labor Relations Commission to have a discharge overturned, if (1) the discharge violated the union's rules, (2) the employee had been denied a fair trial, (3) the penalty imposed was not justified by the offense, or (4) the penalty was inconsistent with the established public policy of the state. It is also an unfair labor practice in Massachusetts to strike against or boycott an employer to force him to discharge an employee in violation of the state law.

Kansas makes it a misdemeanor for a union to deny an employee the right to petition courts concerning any agreement, to publicize facts concerning such agreement or violation of law, and to assemble peaceably or to speak freely. Colorado permits an employee to take any complaint regarding any union matter to the state industrial commission and thus suspend any disciplinary action of any kind that a union might impose upon a member until the commission could interfere. Here again, however, the law is inoperative because of its tie-in with the unconstitutional compulsory incorporation feature.

Representation Disputes

All the state labor relations laws except those in Kansas and Michigan provide that in case of a dispute over representation the appropriate agency shall have authority to determine which union, if any, is the representative of a given group of employees. In Michigan, the state mediation board can conduct elections but only if all parties agree, but Kansas makes no provision whatsoever.

In general, the state boards handle representation matters similarly to the way in which the National Labor Relations Board functions. There are, however, some statutory and administrative variations. The first of these is the so-called craft proviso, which has been written into many of the state laws at the request of the American Federation of Labor. Thus the New York law, Section 705 (2), provides that "in any case where the majority of employees of a particular craft shall so decide the [New York State] board shall designate such craft as a unit appropriate for the purpose of collective bargaining." This is similar to, but goes beyond, the craft unit policies of the NLRB as expressed in the "Globe" doctrine.[6] In effect, it extends to all crafts the right of separate representation such as the Taft-Hartley Act gave to professional employees. State agencies may, however, deny a separate election to an employee group if the agency decides that the group is composed of various employees rather than of a "true craft."

The appropriate unit is generally one plant, but multi-plant units are not unknown, particularly in industries, e.g., retail delivery, where multi-unit bargaining on a local basis is common.

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[6] See Chapter 30, pp. 66ff., for a discussion of the "Globe" doctrine.

All the laws follow the Taft-Hartley rather than the Wagner Act in permitting employers to petition for representation elections, although the latitude permitted employers to petition varies considerably. In addition, Pennsylvania and Wisconsin permit employees to file petitions to prove that they do not want representation by a union. This is a somewhat similar approach to the decertification procedure of the Taft-Hartley Act.

Restrictive and Anti-union Legislation

Between 1939 and 1948, a great many states enacted legislation making it illegal for a union to engage in a variety of actions, some of which were already illegal and others of which were common union practice. These laws reached a peak in 1946–47, and then commenced to be counterattacked the following year. In general, this legislation was sponsored by industrial interests and placed on the books largely with the assistance of rural legislators who had been angered by strikes which interfered with marketing of crops, or who were merely anti-union in outlook, as was generally the case.

The legislation referred to in this section is not part of labor relations statutes. Rather, it consists of a series of laws which outlaw union practices (or alleged practices) without offering any constructive substitutes or programs. Moreover, most of these laws have been passed in predominantly rural southern and midwestern states where unions are relatively weak. There can be no doubt but that the prime purpose of these laws is to lessen the ability of unions to function effectively. As in the case of other union regulatory measures, however, the effect is often the opposite, for unions are aroused to energetic action, economic and political, in order to remove the restrictions.

Nature of the Restrictive Laws[7]

As of July, 1947, 17 states had special provisions outlawing already unlawful conduct such as force and violence, sitdown strikes, and force in picketing. As to activities which are not otherwise unlawful, by mid-1947, jurisdictional strikes were outlawed by 7 states, 4 outlawed sympathy strikes, a like number outlawed strikes to compel statute violations, and 10 regulated strikes in violation of contracts.

Six states proscribed picketing in the absence of a labor dispute, 3 prohibited non-employees from picketing, 2, picketing of homes, and

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[7] This compilation based on C. C. Killingsworth, *State Labor Relations Acts* (Chicago, University of Chicago Press, 1948), as corrected, includes some states where the restrictive measures are a part of labor relations laws.

Delaware gave courts almost blanket authority to regulate or restrain picketing.

Boycotting was regulated by 1947 in 11 states, and 12 states had enacted anti-coercion statutes aimed at alleged union coercion of employees.

As of 1947, 16 states had passed legislation outlawing all forms of the closed or union shop, and 6 states regulated the check-off. Missouri outlawed strikes to gain union recognition in the absence of a labor board certification, and Delaware outlawed union hiring halls, union demands to secure standby employees, or to secure work not required by an employer, and union demands aimed at unionizing working employers.

By 1947 also, registration laws for unions requiring filing of reports, licensing or similar provisions were established by 10 states, dues and fees were regulated by 7 states, and elections and eligibility of office by 4 states. Discrimination because of race or color was regulated by 16 states, including 8 which enacted fair employment practice legislation. Other state laws regulated expulsions, and set forth minimum rights of members, and 4 limited political contributions by unions.

By mid-1949, Louisiana, Maine, Delaware, Missouri, New Mexico, and New Hampshire had repealed their restrictive labor legislation, and repeal forces in North Carolina and Iowa had been defeated by the narrowest of margins. For, although many of the problems covered by these restrictive laws are worthy of legislation, no constructive purpose is served by overly restrictive "get unions" legislation which is usually enacted in an emotion-choked atmosphere with little understanding of the basic problems of industrial relations.

Fair Employment Practice Legislation

The efforts of Negroes and other minorities to obtain a fair chance at employment opportunities, coupled with the manpower requirements of the armament program, led in early 1941 to the establishment of a Presidential executive order establishing a fair employment practice committee. During the war, the committee attempted to integrate minority workers into war industries and otherwise effectuate the policy of nondiscrimination on grounds of race, color, creed, or national origin.

The work of FEPC dramatized the possibilities of such legislation and led to the passage of state laws in eight states by mid-1949.[8] In addition, legislation of this character is being pushed in many other states and in Congress.

Under the state fair employment laws, agencies are empowered to investigate and to hear charges of discrimination in much the same manner as the NLRB handles unfair labor practice cases. The laws also provide, however, that conciliatory methods to secure compliance must be attempted before enforcement is invoked.

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[8] New York, New Jersey, Massachusetts, Connecticut, Oregon, Washington, Rhode Island, and New Mexico. In addition, Wisconsin and Indiana have advisory laws.

The state laws have already had effects upon policies of employers and unions. A number of unions, such as the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes and the Brotherhood of Maintenance of Way Employees, have removed discriminatory provisions from their laws and have adopted non-discriminatory policies. Others, however, such as the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen, have modified their rules but not their policies.

State fair employment practice laws have also resulted in considerably increased employment, especially for Negroes, but also for other minorities. Unfortunately, however, these laws have not had the far-reaching effects which their sponsors expected. The basic reason appears to be that workers of minority groups remain reluctant to apply for jobs where they feel that they will be rejected. Workers are looking for jobs, not law suits or insults. And most important, there is no organization to play the role which unions have in unfair labor practice cases. A worker who has been discriminated against because of race or color may secure some assistance from a race relations organization or a legal aid group; but no organization exists which is primarily engaged in handling such matters. As a result, many complainants do not follow through even if they make complaints.

Another factor which has limited the value of state fair employment agencies is the stress given conciliation as against enforcement. The agencies appear more anxious thus far to avoid antagonizing the business community than to push forward the main task of securing fair employment for minorities.[9]

Concluding Remarks

The states have experimented widely in the field of industrial relations. Many state laws have been based on federal experience; and much federal legislation in turn originated in the states. The Wagner Act was copied by several states, and many of the Taft-Hartley amendments to the Wagner Act were based on state laws.

The need, however, for basic uniformity in federal-state legislation has never been seriously attacked. No agreement exists as to which areas should be regulated by states and which by the federal government. Stable and peaceful industrial relations require agreement both on areas of regulation and on principles. The latter, apparently, must await the former, and the former may only be achieved by federal assertion of authority where Congress decides such is necessary.

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[9] See H. R. Northrup, "Proving Ground for Fair Employment—Some Lessons from New York State's Experience," *Commentary*, 4:552–556 (1947).

33

Government as Employer

In 1947, 6,000,000 persons earned their livelihood as civilian employees of federal, state, or local governments.[1] Public employees thus constitute one of our largest worker groups. Moreover, the tendency of our times is to increase the services of the state and hence, the number of public workers. Obviously, the government must have industrial relations policies to deal with its vast employee force.

The role of government as employer is of increasing concern today, first because of the expansion of government activity into the industrial field, and second because of the frequent use of the seizure technique as a method to deal with so-called emergency strikes. As to the latter situation, for example, the Supreme Court ruled in 1947 that the federal government was not proscribed by the Norris-LaGuardia Act from obtaining an injunction against a strike by the United Mine Workers at a time when the government had seized the mines because miners were then "federal employees."[2] The court ruled thus despite the fact that the government was in possession of the mines in only a fictional, or perhaps technical sense, and despite the fact that there was no thought on the part of anyone involved in the controversy that the mines would not be turned back to their private owners (who continued to operate them during government seizure) as soon as the miners and operators could reach an agreement for peaceful operation.

The government as employer thus poses a serious problem for the future of collective bargaining. If the government continues to increase its industrial activities, the area of collective bargaining can be narrowed considerably. There are, however, strong possibilities that this dilemma can be averted. One way would be for the government to adopt different labor policies for its industrial activities than for its traditional functions. In some ways this is what Great Britain is doing in its newly nationalized industries, and what the federal government has done in such quasi-independent operations as the Tennessee Valley Authority.

Another, and in many ways more feasible, manner in which the dilemma of government as employer can be resolved is for both government and government employees to exercise that restraint which should characterize their relations in a democracy. For employees, this means voluntary relinquishment of the right to strike in recognition that, whatever the legal aspects of the problem, the general public is generally opposed to strikes of public workers. In return, the government should recognize that unions and collective bargaining have a role in government-employee relations, and that the fact that government employees do not use the strike weapon makes it essential that substitute methods of settlement and fair personnel practices be instituted. This latter is the more likely road of labor relations in the American government. Before, however, a labor relations policy for government employees can be worked out on the basis of these principles, a number of statutes and regulations must be clarified in regard to government labor's right to strike, to organize, and to bargain through unions.

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[1] Data from U. S. Bureau of Census.

[2] *U. S. v. United Mine Workers*, 67 Sup. Ct. 677 (1947).

The Sovereign Employer and the Right to Strike

Traditionally, the government as employer assumes that, since the government represents the sovereign power, it must reserve the sole right to determine the terms and conditions of employment under which its employees labor. In actual fact, however, the second premise does not follow the first. The essence of sovereignty includes the right to delegate authority. Hence, the sovereign power can delegate or share authority to determine the terms and conditions of employment. To a considerable extent, many governmental agencies actually do this, but many do not.[3]

Probably no government body in the United States concedes the right of its employees to strike. A strike of government employees which results from dissatisfaction over wages, hours, and working conditions becomes, in the light of the principle of sovereignty, an insurrection against public authority. Despite the fact that thousands of government employees have struck at one time or another,[4] a strike of public employees is greeted with extraordinary alarm and concern. Now if striking government employees are policemen or firemen or equally essential groups, it is easy to understand the public alarm. If these striking employees are truck drivers or street laborers, the situation is a rather anomalous one. For these employees are not only not essential to the conduct of the community's business, but they are, like many government employees, often less essential to the community than are the employees of many private concerns. For example, in New York City, a strike of employees of private tug boat operators literally shut down the city. If the employees of the Consolidated Edison Company, which supplies New York City with electric light and power, should strike, the effect could well be as catastrophic as a police strike. And when New York City transit employees were working for a private company, no one doubted their right to strike. Yet when the city took over these same transit companies, the transit employees were advised that they now had no right to strike since they were government employees.

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[3] For an excellent discussion of this subject, see S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948). Much of this discussion is based upon Dr. Spero's book.

[4] David Ziskind, *One Thousand Strikes of Government Employees* (New York, Columbia University Press, 1940).

Despite these anomalies, strikes of public employees both interfere with the efficient operation of government and are extremely unpopular with the general public. One result of this public disapproval has been a series of local, state, and federal laws penalizing striking government employees. A wave of local ordinances and regulatory measures were adopted in 1919–20, after the Boston police strike of 1919, which were designed to outlaw public employee strikes, especially those by firemen and policemen; and a second wave of such ordinances followed in 1946–48.

The states began adopting similar public worker anti-strike legislation in 1946, and by two years later, nine states had such laws on the books.[5] The most drastic of these measures is New York's Condon-Wadlin Act of 1947 which was later copied in Pennsylvania and Michigan, and with some modifications, by Ohio. It provides that (1) public employee strikers shall be immediately discharged; (2) if such strikers are eventually rehired, they shall receive no salary increases for a three-year period over that which they were receiving when the strike occurred; and (3) rehired strikers shall be deemed temporary employees for a five-year period and therefore subject to summary discharge. Moreover, the Condon-Wadlin Act defines a strike as an *individual* act of a person "who, without the lawful approval of his superior, fails to report for duty or otherwise absents himself from his position, or abstains in whole or in part from full, faithful and proper performance of his position." This definition can easily be used by administrators to discharge employees for any reason whatsoever.

The federal government has also outlawed public employee strikes. The Lloyd-LaFollette Act of 1912, which affirmed the right of postal employees to join unions, did not include within its protection organizations "affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States." A "rider" attached to appropriation bills since 1946 forbids payment of salaries to federal employees who are members of an organization "asserting the right to strike against the United States." Then Congress included in the Taft-Hartley Act the following provision modeled upon New York State's Condon-Wadlin Act:

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[5] Virginia, Texas, Washington, Nebraska, Missouri, New York, Pennsylvania, Michigan, and Ohio.

> It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned government corporations to participate in any strike. Any individual employed by the United States or by any such agency, who strikes, shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the United States or any such agency.

Such legislation aimed at curbing public employee strikes is not only primitive but unnecessary. The courts have always conceded the right of government bodies to discharge employees for strike activities. Moreover, unions in the government service are almost unanimous in opposing strikes and generally have anti-strike provisions in their by-laws. The main exception was the action of the United Public Workers (CIO) at its 1946 convention in providing a procedure for strike action. This led directly to the 1946 Congressional riders forbidding payment of salaries to members of organizations "asserting the right to strike against the United States."

The main difficulty with negative anti-strike laws is that they encourage government and administrators to ignore roots of discontent which are the main causes of strikes of both government and industrial workers.

The Right to Organize and to Bargain Collectively

The federal government concedes the right of its employees to organize and to bargain collectively through unions of the employees' own choosing. The main limitation is that, since 1946, these unions cannot assert "the right to strike against the United States."

Federal employees did not win these rights without a struggle. Commencing in the nineteenth century, but especially in the administrations of Theodore Roosevelt and William Howard Taft, federal employees were generally denied the right to form unions of their own choosing. Moreover, as a result of persistent attempts by postal employees to form unions and to improve their working conditions, President Theodore Roosevelt issued so-called "gag-rules" which forbade all federal employees from seeking to influence legislation either directly or indirectly through associations, or to appear before Congress except through the heads of departments.[6] After a persistent campaign led by the American Federation of Labor, Congress in 1912 adopted the Lloyd-LaFollette Act which provides:

> That membership in any society, association, club or other form of organization of postal employees not affiliated with any outside organi-

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[6] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), pp. 105–144.

> zation imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or group of persons of any grievance or grievances to the Congress or any member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.

Although the Lloyd-LaFollette Act applies only to postal employees, its principles have been made generally applicable to all federal workers. The Lloyd-LaFollette Act, moreover, grants the right of hearing and notice to permanent employees in the civil service, except employees of the State and Defense Departments and of the Atomic Energy Commission.

In addition to the protection of the Lloyd-LaFollette Act, employees in the federal service are entitled to review of dismissals by the Civil Service Commission. A Presidential directive has instructed department heads to carry out the Civil Service Commission's recommendations. Nevertheless, government employees are excluded from the coverage of the National Labor Relations Act, and the Lloyd-LaFollette Act does not confer rights upon government employees similar to those conferred upon industrial employees by the National Labor Relations Act. The Lloyd-LaFollette Act represents merely Congressional approval of government employee unionization, and in addition sets forth a procedure which must be followed in instances of employee discharges from the federal service. Once the procedure is followed, discretion to discharge is with the administrator and the courts will not interfere.

Nor is this fact altered by the provision in the law governing employment in the post office which states that "No person in the classified civil service . . . shall be removed therefrom except for cause. . . . Membership in any society . . . or other form of organization of postal employees . . . shall not be the cause for reduction in rank or compensation or removal . . . from said service." According to Dr. Spero:

> The net result of these provisions was that the postal authorities gave reasons other than the true ones for their action when seeking to remove or discipline an employee for activity arising out of organization membership. Thus they ordered the removal "for the good of the service," "for bringing the service into disrepute," "for conduct unbecoming a federal employee," "for making false and misleading statements." The postal authorities have found the law no obstacle in their efforts to get rid of troublesome organization members. Postmaster

General Burleson, with the law fresh upon the books, discharged the national leaders of every AFL union of postal employees. His successors similarly had no difficulty in dropping workers who had come into conflict with the department during the salary campaign of 1924–25, and Postmaster General Farley's administration under the New Deal made removals for organization activity as readily as its predecessors. So long as the courts refuse to go behind the stated reasons of the authorities in making removals forbidden by law, the guarantees of the law in its present form remain empty.[7]

STATE AND LOCAL LEGISLATION

Following the Boston police strike of 1919, several communities enacted ordinances or regulations which not only severely penalized policemen or firemen who strike, but which also outlawed affiliation of police or firemen organizations with the general labor movement. In 1942, Dallas, Texas, enacted a law flatly forbidding employees to form unions. Following the doctrine enunciated in 1891 by Oliver Wendell Holmes,[8] such ordinances have been held constitutional.[9]

The municipal anti-strike laws enacted after 1946 included a number of anti-affiliation and anti-unionization provisions. In addition, the legislatures of Virginia and Texas adopted joint resolutions declaring it to be contrary to the public policy of those states "for any state or local official to recognize or negotiate with a labor union as a representative of public employees."[10] In 1940, Alabama's legislature resolved that it "viewed with grave concern and disfavor" any "effort to organize state employees."[11]

Nevertheless, a number of state and local governments do not look with disfavor upon the unionization of their employees. However, the degree of civil service protection afforded state and municipal employees is generally less than in the federal service, but even where civil service exists, it provides little protection if the administrator cares to circumvent it. So long as the correct procedure is followed, dismissals can be made.

"There is no more persistent misconception regarding the status of public employess than the belief that a person once appointed to a government job cannot be fired. The fact is that in the public service the authority of the executive to discipline or remove is as great as that of the management of a large private business."[12] Moreover, in so far as discharge for union activity is concerned, the public employee has considerably less protection than the employee in private industry.

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[7] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), p. 42.

[8] "The petitioner may have a constitutional right to talk politics but he has no constitutional right to be a policeman." *McAuliffe v. Mayor of Bedford,* 115 Mass. 216 (1891).

[9] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), pp. 29–32.

[10] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), p. 33.

[11] Quoted by S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), p. 32.

Collective Bargaining in the Public Service

Despite the difficulties placed in the path of unionism in the public service, more than one million government workers were members of AFL, CIO, and independent unions in 1947,[13] and scores of local, state, and federal agencies bargained with organizations of their employees.

Civil Service and the Right to Organize

Under present federal legislative practice, Congress enacts into law certain specific salaries and salary grades for most federal government employees. Moreover, most federal employees are covered by civil service regulations which prescribe generally the terms and conditions of employment. This had led many people to question what useful purpose a labor organization of federal government employees can perform. Actually, however, in the federal government as in any other employment, relations between supervisors and workers result in grievances and other employment problems which are best resolved through collective bargaining. Much discretion is lodged in the administrators of government departments and bureaus to promote, penalize, and otherwise to affect the careers of personnel. Only through collective bargaining, can grievances of employees be satisfactorily adjustable. This is true for government employees as well as for employees of private concerns.

The general principle followed in collective bargaining in the government service is that administrators may bargain with unions of their employees on matters over which the administrator has authority or discretion. Obviously, if Congress provides by statute that the wage for a certain group of employees shall be a specific amount, the administrator cannot alter that wage. Obviously also, if employees are hired pursuant to civil service regulations, the closed shop or other forms of union security which make jobs dependent upon union membership are incompatible with civil service regulations and therefore cannot be entered into. On the other hand, in such agencies as the Tennessee Valley Authority, to which Congress has given considerable discretion in handling employee relations, collective bargaining can be more inclusive.

Many government departments have denied that they have authority to enter into written collective agreements. Again, however, this policy is largely unrealistic so long as the written agreements do not exceed the administrator's authority to delegate power or to use his discretion. As a matter of fact, such government agencies as the Tennessee Valley Authority, the Bonneville Power Administration, the Alaskan Railroad, and, during its existence, the New York Regional Office of the War Labor Board have all entered into collective agreements. Other agencies and departments approximate the written collective agreement by having the administrator or personnel officer post upon a bulletin board matters that have been agreed to by unions and the administration. Still others operate merely by verbal understandings. As long as relationships are conducted on a high plane, the type of agreement is not of paramount importance.

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[12] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), p. 39.

[13] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), pp. 71–76.

STATE AND LOCAL GOVERNMENTS

In state and local employment, the principles under civil service regulations of these governmental bodies are no different. There are, however, two aspects which have differentiated relationships somewhat. The first is that collective bargaining on the state and local levels is frequently the subject of legal attack which usually stems from the disinclination of officials to enter into collective bargaining agreements and their attempts to rationalize this refusal by declaring that they have no authority to engage in collective bargaining. Actually, the law on the subject is slight. So long as legislation to the contrary does not exist, and so long as no terms of the collective agreement violate existing legislation dealing with terms and conditions of employment for public workers, there does not seem to be any bar to collective bargaining in state and local employment.

The other fact which distinguishes federal employment from that of states and municipalities is the extent of civil service. Especially in municipalities, civil service coverage is much less widespread. Where civil service does not exist, and where employment terms are not written into law, collective bargaining is not so limited and closely approaches collective bargaining in private industry.

A Policy for Government Employment

Efficient government requires an efficient employee force. To maintain morale and therefore efficiency on a high level, it is imperative that all government levels develop advanced personnel programs. Such programs should recognize the following points:

1. That collective bargaining is the only method by which employees may secure an effective voice in wages, hours, and working conditions. Since this is true of public, as well as private industry, employees, no bars should be placed in the way of collective bargaining.

2. That collective bargaining in the public service should concern itself with those items over which the administrator has discretion.

3. That public employees should relinquish use of the strike weapon. In return, public employees should be guaranteed wages, hours, and conditions of employment equal to those paid in comparable jobs in private industry.

4. That restrictive anti-strike legislation, such as contained in New York's Condon-Wadlin Law, or in the Taft-Hartley Act, is unnecessary and does not contribute to good employee relations in the public service.

If governmental authority and labor's right to organize and to bargain collectively are not to clash head-on, a compromise solution must be worked out.

> The public services are expanding and the number of workers in the employ of the government is constantly increasing. The American public service, quite as much as the service of any other country, needs such criticism of its management and such a check upon its authority as only independent employee organizations, supported by a free labor movement, can give. Yet it still remains the duty of government to see to it that the public services operate for the benefit of the whole public. It is out of the inevitable conflicts inherent in this situation that problems of employer-employee relations arise in the government service. Fundamentally these problems are a phase of the perennial conflict between authority and liberty in a free society. The issue admits of no final solution but only of working arrangements which leave intact the basic claims of each party. If government presses its sovereign authority to its logical end, it may destroy freedom. If the employees of government fully exercise their collective pressure in their own behalf, they may undermine the public security upon which freedom rests. The life of a free society depends upon the maintenance of freedom and authority in delicate balance. The preservation of this balance depends in turn upon mutual restraint on the part of both government and its employees founded upon the recognition of the fact that in real life there is neither complete liberty nor absolute sovereignty.[14]

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[14] S. D. Spero, *Government as Employer* (New York, Remsen Press, 1948), pp. 486–487.

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The Future of National Labor Policy

The present labor policy of the United States, as embodied in state and federal legislation and action, may be said to have five, or possibly six, principal aspects: (1) protection of workers from the risks and hazards of industry through state workmen's compensation acts and state and federal social security legislation; (2) maintenance of minimum labor standards by means of state and federal minimum wage and maximum hours legislation; (3) encouragement of collective bargaining by protecting the right of labor to organize through legislation, such as the National Labor Relations Act and similar state laws, and by aiding the peaceful settlement of labor disputes through federal and state mediation agencies; (4) regulation of those activities of unions which are considered contrary to the public interest by such instruments as the Taft-Hartley amendments to the National Labor Relations Act and by similar state laws; (5) protection of workers against discrimination in employment on the grounds of race, color, creed, or national origin—a new development exemplified by fair employment practice legislation.

There is in addition a sixth aspect which, as yet, has not been translated into action, but which is very important. This involves encouragement and fostering of reasonably full employment by the federal government.

Development of Labor Policy

The labor policy of the United States has developed slowly and haltingly. No one court decision or legislative act can be singled out as representing the beginning of governmental labor policy. Much of our present policy, it is true, stems from the great depression and the period of the Roosevelt Administration, during which great strides were made toward formulating present labor policies. Nevertheless, each period of history has made some contribution to the present status of labor legislation and governmental action. For example, even the most revolutionary of all labor laws—the National Labor Relations Act—had its roots in state and railway labor legislation of the 1890's.

At various stages of American labor history, different aspects of labor policy have been stressed by legislators and labor leaders. For example, encouragement of collective bargaining by protecting the right of labor to organize was of prime importance in our labor policy in the period from the birth of the National Recovery Administration to enactment of the National Labor Relations Act. Restraints on activities of unions were especially emphasized in the post-World War II era, representing in part a reaction to certain alleged excesses of unions during the period of unrestricted union organization. Labor policy is thus continually evolving. Laws are passed which at the time may represent majority thinking. But majority thinking is not static and, as views alter, labor legislation reflects the changing trend in public opinion.

It is natural to assume, therefore, that labor policy will continue to evolve in the future. While many future developments cannot be predicted, certain trends are already evident. Thus, for example, a developing labor policy will undoubtedly include measures extending the coverage of minimum wages and broadening social security, as well as further legislative attempts to solve the problem of strikes which endanger public health and safety. The deficiencies of present legislation with respect to each of these aspects of labor policy have already received consideration in earlier chapters of this book and need not be reiterated.

But in addition to the specific problems for which a developing labor policy must find a solution in the future, there are also certain general problems concerning labor policy as a whole which merit the attention of labor, industry, legislators, and students of labor. It is to these broad considerations of policy that we now turn our attention.

Need for Integration of Labor Policy

The United States needs *a* labor policy. At the present time, it has no labor policy but rather a patch-work of policies, comprehensive but not consistent. There is, for example, no uniformity of treatment between the states. State labor relations, workmen's compensation, unemployment insurance, and minimum wage laws differ widely. The accident of location determines the extent of employee protection.

Nor is there any agreement between the states and the federal government as to areas of regulation. As a result, state and federal laws are frequently contrary in purpose, inconsistent in approach, and diverse in administration. Federal laws such as the Taft-Hartley Act, the Portal-to-Portal Act, and the Social Security Act, which invite, and give priority to, state legislation, encourage complicated, diverse state laws and inconsistent state-federal legislative relationships.

Even within the federal framework of legislation there is no consistency. Railway and airline employees and employers who come under the Railway Labor Act have different rights and duties from those of their fellow employees and employers who come under the National Labor Relations Act. Likewise, the railway industry has a separate social security system, while airline pilots have a special (and extraordinary) minimum wage law. Before the Taft-Hartley amendments to the National Labor Relations Act, the latter law and the Norris-LaGuardia Act were so at odds that powerful unions were able to utilize the protection of the Norris-LaGuardia Act to nullify rights guaranteed to employees by the National Labor Relations Act.

There is also inconsistency of purpose between two current goals of labor policy—promoting collective bargaining and regulating certain union activities. Although some such inconsistency may be unavoidable, the extent of the present conflict between harsh state laws, which have as their primary objective the regulation of unions, and federal laws intended to encourage collective bargaining would appear capable of being lessened.

The fact that there are basic conflicts in the national labor policy should not be surprising. Indeed, all things considered, perhaps it is surprising that there are not more inconsistencies in existing legislation. Labor legislation is enacted in response to pressure of public opinion and influences exerted by various interest groups. In some states, labor's political position is strong; in others it is weak. State labor laws reflect this fact.

Moreover, neither labor nor industry alone can command sufficient votes to sway Congress. When in disagreement over legislation, both must appeal for support to that huge, vague group known as the "middle class," which holds the balance of power in our society, in so far as such a balance exists. As the electorate shifts first one way and then another, the complexion of Congress and state legislatures changes. Legislation in the highly controversial field of labor relations reflects these changes.

Undoubtedly, better legislation would result if labor and industry, aided by experts in this field, could agree on a comprehensive program for a national labor policy. There is a real need for a general overhauling of our disjointed system of conflicting and overlapping labor laws. Even if agreement could not be reached as to the basis on which such laws should be improved, it might at least be possible to achieve a greater degree of uniformity than now exists between the various state laws. Unfortunately, however, achievement even of such limited agreement is not too likely in view of the basic conflicts of interest, not only between labor and industry, but also within both labor and industry groups. The present system of push-and-pull of pressure groups to secure labor legislation favorable to themselves is likely to remain with us for some time to come.

Need for Defining Role of Unions and Management

In Chapter 8, we considered the problem of defining the scope of managerial prerogatives. We need not repeat here the considerations there discussed. Suffice it to say that the problem of preserving entrepreneurial freedom to manage business while affording union membership security will be telescoped in importance in coming years by the ever-growing extent of union demands. Although union leaders, by and large, believe in maintenance of the American system of free enterprise, their continuing search for means to afford security to their membership must inevitably produce a narrowing of the area of business initiative. Layoffs, technological change, and production policies are likely to be moved more and more into the orbit of union consultation and control. Union attempts to prove management's ability to pay higher wages and other benefits will lead to increasing interest by unions in company accounting systems and managerial policies.

No one can say where the ever-widening scope of union demands will end. It is safe to hazard a guess, however, that labor and management in the United States will ultimately work out a *modus vivendi* which will differ from that reached in other countries and which will reflect the peculiar character of American democracy and the American industrial environment. Such a compromise must recognize the basic need of the worker to feel secure in his job and to participate fully in the industrial process. At the same time, it is important that management be left free to plan, to invent, and to improve production methods so that not only labor, but also the public at large, may benefit from the efficiency of the capitalistic system.

Need for Defining Role of Industry and Government

The problem of demarcating the respective scopes of unions and management has its counterpart in the larger social question of the proper balance between individual initiative and governmental control. This basic issue is met not only in debates over the merits of government control or ownership of utilities, but also in the development of labor policy. The nature of this problem and its relation to labor policy can be conveniently illustrated by an examination of the conflict over pensions for employees which broke on the labor scene in the fall of 1949.

Union demands for pensions were supported by the report of the Steel Fact-finding Commission, issued in September 1949, which recommended pensions for employees, the cost of the pension plan to be borne entirely by the employer. The Commission declared that it was a social obligation for industry to provide insurance against the economic hazards of modern industrial life and suggested that depreciation in the human machine—like depreciation in capital equipment—should be assumed by business as a normal cost of operation. The conflict over pensions between the steel companies and the United Steelworkers was fought primarily over the issue of whether or not the pension fund was to be supported entirely by employer contributions or in part by contributions from employees. But underlying the controversy, a deeper and more fundamental issue was at stake which, though only faintly grasped by the chief protagonists in the struggle, was to become more apparent and more acute as additional unions jumped on the pension bandwagon. This was the question whether workers as a group should look to industry or to government for satisfaction of their welfare needs.

The notion that industry, on its own initiative, should amortize its human costs in the same manner as it has customarily amortized its mechanical costs is an attractive one; yet it must be recognized that there are definite shortcomings to this view. The primary difficulty in having pension or other benefit plans financed and administered by individual firms without any over-all supervision or integration by government is that such plans are bound to differ from one company to another. As a consequence, they are likely to be haphazard and incomplete in their coverage, unequal in the amount of their benefits, and unduly favorable to workers who happen to have the good fortune either to be members of strong unions or to work for prosperous concerns. Strong unions, like the United Mine Workers, have already demonstrated their ability to require employers to make enormous contributions to employee welfare funds. This success is unlikely to be duplicated by unions less strategically located.

A further element of unfairness in leaving the settlement of pensions and other aspects of a welfare program to the processes of collective bargaining is that the costs of such programs must ultimately be borne by all consumers in the form of lower real income, since, to the extent that companies bear the cost of pension plans, costs and prices of their products will tend to rise. This means that the public generally must pay for the disproportionate benefits which may be obtained by strong unions in particular industries. Moreover, as long as pensions remain a matter for collective bargaining, there will be constant rivalry among unions in various industries to increase the amount of benefits obtained for their membership in order to outdo other unions. The consequences of such rivalry upon industrial costs, profits, and employment could be serious. In years to come, industrialists may look back on their failure to support liberalization of benefits under the Social Security Act in sufficient time to head off the pension drives by unions as one of the most costly of mistakes.

The alternative to individual company pension plans is government administered pensions under an expanded and liberalized social security program. This approach has the advantage of enabling workers to share equally in benefits regardless of whether they are organized or unorganized, members of strong unions or of weak unions. Moreover, the principle has already been established under the Social Security Act that workers should contribute to support of the cost of the program—a principle which seems to commend itself for its fairness. But an expanded government administered welfare program for employees also has its drawbacks. It means rising taxes, increasing bureaucracy, and growing intervention by labor in politics so as to make its influence and demands felt in determination of the extent and disposition of benefits. Pensions are, of course, only the beginning. The politics of union organization require that union leaders, in order to retain the allegiance of their membership, must constantly obtain new benefits for employees. If government, rather than employers, becomes the fount from which new benefits are to be sought, labor may use its political influence to obtain for American workers a "cradle to the grave" welfare program similar to that obtained by British labor from its Labor Government. Such a development would bring the welfare state to America.

Employee demands for protection against insecurity thus present industry with a challenge and a dilemma. Either industry must accept its responsibilities and take the initiative in developing a broad program designed to protect workers from the risks and hazards of industrial life—with unforeseen consequences upon costs, profits, and employment—or labor may take the other road, which leads to increasing government regulation and taxation of industry and to increasing dependence by workers upon the government to solve their problems. The decisions made with respect to this aspect of labor policy may thus have profound repercussions upon the pattern of American economic life and may influence the nature of the balance which is ultimately struck between government regulation and individual enterprise in our economy.

Indexes

Index of Authors

Boldface type indicates references in text. Regular type indicates footnote references.

Allen, R. A., 27
Anderson, B. M., 530
Anderson, G., 406
Anderson, N., 358
Arenwald, W. P., 639
Arnold, A. R., 572
Arnold, S., 357

Backman, G. S., 589
Backman, J., 470
Baker, H., 223, 224
Barkin, S., 413, 416, 484
Barnes, C., 152
Barnett, G., 304
Belfer, N., 90, 299, 338
Bell, S., 491, 497, 498
Bernheim, A. L., 634
Bing, A., 642
Black, J., 524
Bloch, J. W., 195, 197
Bloom, G., 299, 317, 329, 338, 424, 483
Blum, F. H., 342, 343
Blum, S., 123
von Böhm-Bawerk, E., 511
Boothe, V., 357
Bowden, W., 460, 483
Bowley, A. L., 493
Bowman, D. O., 663, 671
Brady, D., 547
Brauer, T., 533
Braun, K., 314
Bronfenbrenner, M., **323**
Brown, J. J., 445
Brown, L., 161
Brown, W. F., 185, 189
Buchanan, N. S., 389
Burns, A. R., 325, 330, 386
Burns, E. M., 547–553, 562–565, 569–573, 575, 576, 584–588

Cahill, M. C., 510
Cairnes, J. E., 264
Campbell, R. R., 137
Cassady, R., Jr., 189
Chamberlain, N. W., 108, 205, 207
Chamberlin, E. H., 265, 289, 290, 320, 321
Cheyney, A. S., 534, 535
Clark, C., 507
Clark, J. B., 463
Clark, J. M., 397
Commons, J. R., 22, 598
Cooke, M., 182
Couper, W. J., 132, 143, 145, 630

Dahl, D., 223, 224
Dale, E., 173
Daugherty, C., 333, 359, 375, 512
David, H., 28
David, L. M., 198
Davis, M., 589
Daykin, W. L., 671
Dewhurst, J. F., 58, 59, 61, 62, 243, 252, 260
Dickson, W. J., 163
Douglas, P. H., **203**, 258, 312, 330, 333, **414**, 414, 448, 470, 493, 513, 516, 524
Dubin, R., 174
Ducoff, L. J., 57
Dunlop, J. T., 19, 68, 186, 191–193, 201, 202, 383, 414, 415, 425, 487, 491, 492
Durand, J. D., 57, 58, 60, 524

Ebersole, J. F., 385
Elkin, J. M., 629
Ellis, H. S., 501
Engels, F., 487
Estey, J., 405
Ewing, O. R., 589

Fairchild, F. R., 193
Fisher, C. O., 617
Fisher, L. H., 215, 217
Freeman, L. F., 570
Frey, J. P., 391
Friedman, M., 97
Furnas, J. C., 441

Gaddis, M. E., 651
Gagliardo, D., 652
Gainsbrugh, M. R., 470
Garceau, O., 76, 97
Gilfillan, S. C., 441, 443
Gill, C., 360
Golden, C. S., 503
Goldstein, M. M., 134
Graham, B., 529
Green, W., 519

Gregory, C. O., 23, 597, 604–607, 610, 660, 665
Gronewald, R. G., 542
Grosvenor, W. M., 445
Gutman, E., 226

Haber, W., 271
Haberler, G., 400
Hackman, J., 470, 513
Hall, W. S., 189
Hansen, A. H., 358, 359, 365, 399, 405, 430, 493, 501, 507
Hapgood, M. J., 57
Harbison, F. H., 174, 311
Hare, A. E. C., 653
Harris, H., 503
Harris, S., 361
Harrison, G., 370
Harrod, R. F., 397
Hawkins, E. D., 162
Hawtrey, R. G., 394, 395, 410, 455
von Hayek, F. A., 396, 401–403
Held, A., 224
Herberg, W., 99, 112, 113, 115, 233–235
Heron, A. R., 71
Hicks, J. R., 175, 239, 256, 288, 292, 293, 300, 303, 321, 369, 390, 427, 445, 446, 450, 453–455, 457, 459
Hill, L. H., 206
Hirsch, J., 70
Hobson, J. A., 392
Holland, M., 437
Hook, C. R., Jr., 206
Hotchkiss, W. E., 642
Hoxie, R. F., 22, 37, 230

Jaffe, J. L., 643
Jerome, H., 472
Johnson, E. S., 545

Kaltenborn, H. S., 616, 617, 620, 631, 634, 635, 638, 641, 651
Kaplan, I., 437, 439
Kellog, L. S., 547
Kempfer, K., 570
Kennedy, J. B., 223
Kennedy, V. D., 181
Kerr, C., 215, 217
Keynes, J. M., 353, 369, 377, 378, 382, 385, 405–407, 417–419, 499
Killingsworth, C. C., 638, 701, 702, 705, 709
King, W. I., 356, 447, 508
Knight, F., 253
Kondratieff, N., 358
Kozmetsky, G., 89
Krug, J. A., 529
Kuznets, S., 97, 357, 363, 412, 448, 493
Kyle, C., 227

Lachmann, L. M., 401
Lahne, H. J., 401
Lange, O., 427, 456
Latimer, M. W., 134, 223
Lederer, E., 412
Leontieff, W., 310
Lesser, L., 570
Lester, R. A., 183, 194, 195, 199, 200, 204, 266, 312, 336, 345–347, 360, 488
Lindblom, C. E., 266
Lindsey, A., 28
Long, C., 58, 59
Long, C. D., Jr., 360
Lonigan, E., 473

McCabe, D. A., 181, 313, 322, 487
MacDonald, L., 546
Machlup, F., 286, 337, 447, 502
Mack, R. P., 389
Maclaurin, W. R., 406
Marshall, A., 309, 374
Marx, K., 29, 318, 318–320, 319, 507, 507
Mater, D. H., 157, 158
Mathewson, S. B., 163
Menard, A. M., 570
Menderhausen, H., 524
Meriam, L. S., 589
Metcalf, H. C., 119, 127
Meyers, A. L., 366, 520
Mill, J. S., 275, 277
Millis, H. A., 18, 21, 22, 24–26, 48, 115, 221, 228–230, 359, 481, 525, 580, 589, 597, 599, 602, 603
Mills, F. C., 405
Montgomery, A., 426
Montgomery, R. E., 18, 21, 22, 24–26, 48, 115, 165, 221, 228–230, 303, 359, 525, 580, 589, 597, 599, 602, 603
Murray, P., 6, 182, 307, 432, 467
Mussey, H. R., 521

Nathan, R., 400
Norgren, P., 144
Northrup, H. R., 91, 94, 103, 104, 110, 159, 208, 218, 270, 444, 537, 622, 627, 628, 637, 673, 711
Nunn, W. L., 640, 641

Ober, H., 172, 198

Pearl, R., 258
Peterson, F., 63
Pigou, A. C., 320, 422, 431, 490
Pitzele, M. J., 17, 51

Pool, A. G., 372
Powderly, T. V., **26**, **27**, 27, 512
Pratt, E., 362, 454

Reed, L., 362, 454
Reede, A. H., 584
Rees, A., 228
Reynolds, L. G., 111, 112, 114, 245, 246, 270
Ricardo, D., 257, 258, 401
Rice, W. G., Jr., 643
Robbins, E. C., 222
Robbins, L., 254, 256
Robbins, R. B., 629
Robert, D., 191
Robie, E. A., 183, 195
Robinson, J., 332, 352, 363, 374, 386, 451, 453, 456, 457
Roesthlisburger, F. J., 163
Roll, E., 277, 319
Roos, C., 360, 376, 410, 513, 523, 526–528, 530
Rosen, L., 468
Rosen, S. M., 468
Rosenthal, R., 224, 225
Ross, A. M., 176, 190, 191, 201, **203**, 203, 204, 416, 425, 472, 517
Ross, M., 153
Rowe, E. K., 224
Rowe, J. W. F., 480
Rubenstein, B., 226
Ruttenberg, H. J., 361, 458, 467, 503

Saposs, D. J., 233
Schmidt, E. P., 572
Schumpeter, J. A., 355, 400, 460
Seager, H. K., 642
Seidman, J., 222, 233
Selekman, B. M., 124, 131, 137, 140, 170, 184, 417, 651
Sells, D., 470
Semrell, E. V., 570
Sherman, J. M., 179
Shister, J., 84, 101, 103, 104, 106, 158, 172, 173, 202, 270, 415, 644, 645
Slichter, S. H., **58**, 58, 97, 141, 148, 151, 153, 157, 159, 161–163, 165, 169, 170, 172, 181, 183, 203, 302, 303, 312, 362, 366, 367, 380, 383, 401, 409, 410, 413, 414, 420, 429, 430, 433, 441, 444, 466, 467, 473, 482, 485, 487, 494, 502, 508, 511, 522–525, **626**, 626, **634**, 650, **655**, 657, 658, 679, 686, 692
Smith, A., **264**, 264
Spencer, W. H., 620, 621
Spero, S. D., 714, 716, 718, 719, 721
Stamp, J., 493
Stewart, B. M., 120, 132, 630
Stigler, G. J., 342
Stockett, J. N., 616
Summers, C. W., 90, 94–97
Sweezy, P. M., 328, 372

Taft, P., 79, 81–84, 86, 87, 98–100, 515, 517
Tarshis, L., 404
Taussig, F. W., 264, 493
Taylor, F. W., **39**, **122**, 122, **123**
Taylor, G. W., 646
Tead, O., 119, 127
Teller, L., 647, 654–656
Tryon, F. G., 472
Tufel, K., 134

Van Doren, D., 634
Van Sickle, J. V., 344, 346, 347
Vernon, H. M., 520, 526
Viner, J., 421

Walker, E. R., 422
Ware, N. J., 22
Warne, C. E., 651
Webb, B., 106
Webb, S., 106
Weintraub, D., 437, 439, 440
Weiss, A., 224
Weiss, H., 537–540, 542, 544, 545
Welch, E., 271
Williams, J. H., 501
Williamson, S. T., 503
Witte, E. E., 603, **638**, 638
Wolf, H. D., 159, 617, 618
Wolfe, F. E., 96
Wolman, L., 63, 508, 517
Woytinsky, W., 352, 353

Yoder, D., 520

Ziskind, D., 714
Zisman, J., 135

Subject Index

Page numbers set in *italics* indicate tables or illustrations.
Page numbers set in **boldface** refer to principal discussions.

A

"Acceleration principle," 397
Adamson Act, 37, 513, 617
Adkins case, 534
AFL (*see* American Federation of Labor)
Air Line Dispatchers Association, 92
Air Line Pilots Association, 88, 105, 108, 214, 622
Air transportation, emergency boards, 628
  legislation, 622, 724, 725
  mediation under Railway Labor Act, 624, 625
  minimum wage, 544
    for pilots, 537, 725
Amalgamated Association of Iron, Steel and Tin Workers, 35, 43, 44, 517
Amalgamated Association of Street, Electric Railway and Motor Coach Employees, 82, 223
Amalgamated Clothing Workers, 42, 83, 111, 176, 183, 190, 222, 228, 229, 233, 441, 482, 484
Amalgamated Meat Cutters and Butcher Workmen, 43, 79, 416
American Association of Train Dispatchers, 92
American Civil Liberties Union, 95, 99, 101, 113–114, 146
American Federation of Hosiery Workers, 172, 202, 203, 228, 413, 485
American Federation of Labor, **28 ff.**, 79, 80, 91, 93, 94, 100, 101, 110, 115–116, 117, 153, 191, 213, 222, 226, 262, 271, 513, 514, 522, 534, 642, 643, 655, 659, 665, 716, 719
  and appropriate bargaining unit under Wagner Act, 667–670, 674
  development of, 27, 28–30, 39–40, 46, 609
  discrimination by, 91–96
  and politics, 31, 54–56
  and railroad unions, 30–32, 38, 41
  and rise of William Green, 40–41
  rivalry with CIO, 43–46, 52–53, 213, 661, 674, 675, 684, 690
  structure and government, 30, 115–116
American Federation of Musicians, 81, 89, 106, 166, 203, 612
American Federation of Railroad Workers, 92
American Labor Party, 54
American Medical Association, 97, 149, 591
  and health insurance, 233
American Newspaper Guild, 79, 82, 162
"American plan," 39, 223
American Wire Weavers Protective Association, 92, 93, 94
Annual wages, 136, 162–163, 309 ff., 349
Apex case, 611
Apprenticeship, 130, 147 ff.
Arbitration, compulsory, state, 651–654, 705
  definition of, 31n, 615–616
  on railroads, 619, 625–626, 630
Asbestos Workers, Heat and Frost Insulators, 92

B

Bargaining unit, craft-industrial problems, 669–670, 693
  multi-unit collective bargaining, 668
  on railroads, 217, 619, 620, 622
  under state acts, 708–709
  under Taft-Hartley Act, 693
  under Wagner Act, 667–670, 674, 677
Big Four Railroad Brotherhoods, 30 ff., 37, 52, 54, 87, 142, 222, 513
Blacksmiths, Drop Forgers and Helpers, Brotherhood of (*see* Brotherhood of Blacksmiths, Drop Forgers and Helpers)
Blind, aid to, 551
    under Social Security Act, 588
Blue Cross Hospital Service, 135, 224, 592
Boilermakers, Iron Shipbuilders and Helpers, Brotherhood of (*see* Brotherhood of Boilermakers, Iron Shipbuilders and Helpers)
Boycotts, 599, 601, **607–608**, 611, 612, 674
  prohibition, by state acts, 705, 706, 710
    by Taft-Hartley Act, 687–689, 697, 705

Bricklayers, Masons and Plasterers International Union, 74, 94, 110
Brotherhood of Blacksmiths, Drop Forgers and Helpers, 93
Brotherhood of Boilermakers, Iron Shipbuilders and Helpers, 92, 94, 96
Brotherhood of Locomotive Engineers, 30, 91, 92, 105, 222, 229
Brotherhood of Locomotive Firemen and Enginemen, 28, 30, 38, 92, 166, 168, 222
Brotherhood of Painters, 165, 188
Brotherhood of Railroad Shop Crafts, 92
Brotherhood of Railroad Trainmen, 30, 92, 93, 222, 711
Brotherhood of Railway Carmen, 92
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, 92, 102, 711
Browder, Earl, 48 ff.
Business agent, 75
Business cycle, **391–433**
  interest rates in, 394, 396, 397, 406, 419–421
  substitution of machinery for labor in, 401–404, 432
  and technological change, 399, 404, 432–433
  theories of, **391–404**
    monetary, 394–396
    monetary overinvestment, 396–399
    non-monetary, 399–401
    substitution, 401–404
    underconsumption, 391–394, 411
  and union rules, 430 ff., 432 ff.
  union wage policy in, 392–394, 397, 398, 405, 408–409, 413–427
  wage increases in, 409–412, 418 (*see also* Business cycle, union wage policy in)
  wage reductions in, 405–409

C

Capital, absorption of increased supply of, 447–449
  depletion and wage increases, 389
  invention, saving, 450, 452
  marginal productivity of, 446, 449
Carnegie, Andrew, 35
Carpenters and Joiners, United Brotherhood of (*see* United Brotherhood of Carpenters and Joiners)
Casual unemployment, 366
Check-off, 142
  under state acts, 706, 710
Check-off—(*Continued*)
  under Taft-Hartley Act, 692–693
Children, aid to, under Social Security Act, 564–565
  in labor force, 545
  labor of, under Fair Labor Standards Act, 544, 545
    under state acts, 545
Ching, Cyrus, 636, 637
Cigarmakers' International Union, 28, 29, 169, 172
CIO (*see* Congress of Industrial Organizations)
City "trades' unions," 20
Civil Aeronautics Act of 1938, 537
Clayton Act, 34, 37, 601, 602, 610, 611
Closed shop, state regulation of, 703–704, 706, 707, 710
  strikes for, 8, 598, 606
  and Taft-Hartley Act, 143, 680, 686, 696
  and Wagner Act, 657–677
Closed unions, 606
Collective bargaining, by government employees, 231, **713–721**
  industry-wide, 209, 347, 482, 483, 695
  multi-unit, 106, 183, **208–219**
  national, 106 ff., 109, 209, 323, 624
  process of, 107–110
  by railroad unions, 110, **615–631**
  scope of, 205–219
Commercial Telegraphers Union, 104
Commonwealth v. Hunt, 598, 606
Communists, **47–52**, 55, 95
  affidavit requirement under Taft-Hartley Act, 50, **689–691**, 696
  control of unions, 51, 74, 80, 83, 114, 173, 231
  infiltration into CIO, 48–51
  and Lewis, John L., 48
Company unions, 39, 44, 232, 663, 684
Conciliation, definition of, 31n, 615
  effectiveness of, 632–635
  under Taft-Hartley Act, 635–637
  and U. S. Conciliation Service (*see* United States Conciliation Service)
Congress of Industrial Organizations, **44 ff.**, 73, 74, 80, 85, 91, 94, 100, 101, 106, 115, 116–117, 153, 186, 199, 213, 219, 226
  and appropriate bargaining unit, under Taft-Hartley Act, 693
    under Wagner Act, 669–670, 674
  and Communists, 48–51
  development of, 42–46
  organization of mass production industries, 44–46

Congress of Industrial Organizations—(*Continued*)
  and Political Action Committee, 54, 630
  and politics, 53–56
  rivalry with AFL, 43–46, 52–53, 213, 661, 674, 675, 684, 690
  structure and government, 116–117
Conspiracy doctrine, 8, 23, 597–598, 606
Cooling-off period, under state acts, 650–651
  under Taft-Hartley Act, 649, 695–696, 698
Cost of living, trend in, 66
  and UAW-General Motors contract, 201
  and wage rates in South, 344
Craft unions, 88, 110, 146, 151, 168, 171
  and appropriate bargaining unit, 669–670, 693
  conflict with industrial unions, 43 ff., 669–670
  definition of, 27n
  and mass production industries, 43
Curran, Joseph, 50
Cyclical unemployment, 58, 355, 359–361

D

Danbury Hatters case, 601
Davis-Bacon Act, 536, 537, 542
Debs, Eugene, 28, 599
Demand for income in terms of effort, 254–256
  elasticity of, 254–256
Demand for labor, **273–298**
  in economy, **292–296**
  elasticity of, 372, 375, 376, 383, 419, 421, 446, 524
  in firm, **282–292,** 372
  and marginal productivity, 274, 282, **283–292,** 296–298
  and monopolistic competition, *284*, **289–290**
  and monopsony, **290–292,** 461
  and pure competition, *283*, **284–289**
Democracy, in unions, 110–115
Depression, 223, 307, 361, 428, 438, 513, 657 (*see also* Business cycle; Employment; Unemployment; Union wage policy and adjustments; Wage increases; Wage reductions)
  revival from, 395, 400, 402, 403, 404–412, 426
  and union organization, 20, 25, 39, 88, 154
  wage reductions in, 202, 405–409, 426
Diminishing returns, law of, 277–280
Disability assistance and insurance, 585–588
Dismissal wage, 161, 303, **307–309**
  and technological change, 307–309, 432, 465, 488
Dubinsky, David, 43, 46, 47, 49

E

Economy, demand for labor in, **292–296**
  machinery, substitution for labor in, **363–366,** 498–499
  productivity, changes of, in, 497–498
  supply of labor to, 240, 248 ff., *250*
  wages, changes of, in, 377–381
Efficiency, of industry, and hours reduction, 519–521
    and piece pay, 480, 484
    and productivity, increase in, 499
    and time pay, 481
    and union-management coöperation, 474, 488
    and union rules, 157, **479–490**
    and wage pressure, 337, 343, 486–488
    and wage stabilization, 482–486
  of labor, and hours reduction, 519–521
    and seniority, 157, 429
    and supply of labor, 242, 256 ff.
    and technological change, 429–430
    variation in, over cycle, 427–430
Elasticity, of demand for income in terms of effort, 254–256
  of demand for labor, 372, 375, 376, 383, 419, 421, 446, 524
  of substitution, 446–447
  of supply of labor, 247, 249, 334, 421, 422
Electrical, Radio and Machine Workers, United (*see* United Electrical, Radio and Machine Workers)
Electrical Workers, International Brotherhood of (*see* International Brotherhood of Electrical Workers)
Employment (*see also* Unemployment)
  guarantee of, 162
  and interest rates, 382–385, 417
  and invention, 399, 435, 457–458
  and machinery, labor-saving, 363–366, 457–458
  and marginal productivity, 358, 370, 371, 377
  and minimum wage, 337 ff., 342–343, 345
  and productivity, changes in, 496–515

Employment—(*Continued*)
  and reduction in hours (*see* Hours of work, reduction in)
  and technological change, 349, 358, 361 ff.
  and union wage policy, 358, 366, 374, 382–390
  and wage changes, **369–390**
  and wage increases (*see* Wage increases, and employment)
  and wage reductions (*see* Wage reductions, and employment)
Erdman Act, 32, 33, 603, 617, 625, 658
Esch-Cummings Law, 618
Experience rating, 572–573
Exploitation of labor, **317–347**
  classification of, 324 ff.
  definition of, 320–321
  deliberate, conditions of, 334–336
  Marxian concept, 318–320
  and monopolistic competition, 320, 326–328, 335
  and monopsony, 328, 331, 334n, 339–340, 373
  and oligopoly, 328 ff., *329*, 335, 337
  prevalence of, 337–338
  and pure competition, 320, 330, 335
  and union policy, 337–340

F

Fact-finding boards, 626–630, 648–651
Fair employment practice legislation, 701, 710–711, 723
Fair Labor Standards Act, 470, **537–544**
  administration of, 540–541
  amendments of 1949, 341, 544
  and children, labor of, 545
  coverage of, 538, *539*, 540, 544
  and maximum hours of work, 252, 513, 518, 538
  and minimum wage, 341 ff., 345, 538, 544
  and overtime-on-overtime, 543–544
  and portal-to-portal pay, 541–543
Farm Equipment and Metal Workers, United (*see* United Farm Equipment and Metal Workers)
Featherbedding, 163 ff., 306, 769 (*see also* Make-work rules)
Firm, demand for labor in, **282–292,** 372
  machinery, substitution for labor in, **459–477**
  productivity, change of, in, 496–497
  supply of labor to, 240, **244–247,** 324, 333 ff.
  wages, change in, 369, 370–377
Flint Glass Workers Union, 104
Food, Tobacco and Agricultural Workers, 80
Foremen, 76, 130, 139
  and NLBR, 667, 670–672
  under Taft-Hartley Act, 682
  under Wagner Act, 670
Foster, William Z., 47, 48, 50
Frictional unemployment, 367, 458
Fur and Leather Workers Union, International (*see* International Fur and Leather Workers Union)

G

Garment Workers, United (*see* United Garment Workers)
GI Bill of Rights, 251, 263
Glass Bottle Blowers Association, 104
Globe doctrine, 669n, 670, 673, 693, 708
Gold, Ben, 48
Gompers, Samuel, 28 ff., 40, 116, 185, 223, 224
  and rise of AFL, 28 ff.
  and role of government, 31, 33, 38, 53, 54, 55
Government, employees of, collective bargaining by, 231, **713–721**
    strikes by, 648, 695, 714–716, 721
  seizure by, in labor disputes, **654–656,** 713
    and Norris-LaGuardia Act, 648, 713
Granite Cutters' International Association, 92, 172
Green, William, 40 ff., 519n
Grievance machinery, 131, 139
Guaranteed employment, 162

H

Hatters, Cap and Millinery Workers, United (*see* United Hatters, Cap and Millinery Workers)
Haymarket bombing, 28
Health insurance, 135, 225, **588–593**
Hillman, Sidney, 83, 176
Hiring, racial discrimination in (*see* Fair employment practice legislation)
  selection of workers, 126–127
  union control of, 150–154
Hiring halls, 150, **151–154**
Hobbs Anti-Racketeering Law, 679
Hod Carriers', Building and Common Laborers' Union, International (*see* International Hod Carriers', Building and Common Laborers' Union)

- Homework, industrial, regulation of, 544
- Hosiery Workers, American Federation of (*see* American Federation of Hosiery Workers)
- Hotel and Restaurant Workers, 104
- Hours of work, **507–530**
  - eight-hour day, 26, 37, 617
  - and labor supply, 242, **252–256**
  - legislation, Fair Labor Standards Act, 252, 513, 518, 538
    - NRA, 513, 528–530
    - by states, 544–545
  - overtime-on-overtime issue, 543–544
  - portal-to-portal act, 541–543
  - reduction in, **507–530**
    - effect on efficiency, 519–521
    - effect on employment, with compensatory wage increases, 524–530
      - without compensatory wage increases, 521–523
    - factors affecting, 514–517
    - history of, 512–514
    - and technological change, 511, 522
    - and unemployment, 349, 513, 522 ff.
    - and union organization, 516–518
- Hutcheson, William, 41, 55, 82, 83
- Hutcheson case, 611

I

- Incentive pay, 179–185
- Income, distribution of (*see* National income)
- Induced invention (*see* Invention, induced)
- Industrial disputes (*see* Labor disputes; Strikes)
- Industrial revolution, 25
- Industrial unions, 88, 168, 171, 425
  - and appropriate bargaining unit, 669–670, 693
  - definition of, 27n
  - organization of, by CIO, 43–46
- Industrial Workers of the World, 36–37, 96, 231
- Industry, supply of labor to, 240, 247–248
- Industry-wide collective bargaining, 209, 347, 482, 483, 695
- Inflation, 52, 134, 503–505
- Injunctions, and national emergency strikes, 648–650, 713
  - nature of, 33, 599–601
  - and Norris-La Guardia Act, 9, 42, 609–613, 674
  - under state acts, 649
- Injunctions—(*Continued*)
  - under Taft-Hartley Act, 648–650, 689
  - and unions, racial discrimination by, 612–613
  - and yellow-dog contracts, 8, 9, 33 ff., 42, 602
- Interest rates, 499, 500, 501
  - in business cycle, 394, 396, 397, 406, 419–421
  - and employment, 382–385, 417
  - and union wage policy, 382–385, 419–421
  - and wage increases, 376 ff., 382–385, 419–421
  - and wage reductions, 405 ff., 419
- International Association of Machinists, 53, 92, 94, 183, 184, 188, 190, 628
- International Brotherhood of Electrical Workers, 92, 105, 116, 189, 674
- International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, 83, 102, 176, 189, 674, 679
- International Fur and Leather Workers Union, 48, 185
- International Hod Carriers', Building and Common Laborers' Union, 78, 88, 89, 108
- International Ladies Garment Workers' Union, 42 ff., 46, 47, 74, 89, 91, 188, 221, 222, 302, 441
- International Longshoremen's Association, 83, 88, 90n, 109, 152, 544
- International Longshoremen's and Warehousemen's Union, 80, 153, 165, 211
- International Mailers' Union, 105
- International Molders and Foundry Workers Union, 104, 209
- International Photo-Engravers' Union, 302, 441, 488
- International Printing Pressmen's and Assistants' Union, 84, 105
- International Typographical Union, 25, 78, 82, 83, 84, 102, 105, 107, 165, 171, 188, 214, 690
- International Union of Mine, Mill and Smelter Workers, 50
- Invention, **435–458** (*see also* Research; Technological change; Machinery, substitution for labor)
  - autonomous, 446, 449, 452
  - capital-saving, 450
  - and employment, 399, 435, 457–458 (*see also* Productivity, changes of)

Invention—(*Continued*)
  induced, 445–458
    frequency of, 450–453
    theory of, 445–453
  labor-cost-saving capacity of, 462–468
  labor-saving, 446 ff.
    and real wages, 455–456
    and research expenditures, 435–441
    and share in national income, 363
    and union rules, 436–437
    and unionization of technologists, 444
    very labor-saving, 446, 453–455
    and wage increases, 435 ff., 442 ff., 444 ff.
Iron, Steel and Tin Workers, Amalgamated Association of (*see* Amalgamated Association of Iron, Steel and Tin Workers)
"Iron law of wages," 275

J

Job analysis, 127–128
Journeymen Barbers, Hairdressers, and Cosmetologists' International Union, 93, 189, 222
Journeymen Plumbers and Steamfitters, United Association of (*see* United Association of Journeymen Plumbers and Steamfitters)
Jurisdictional strikes, nature of, 605
  under state acts, 705, 709
  under Taft-Hartley Act, 688, 689, 695

K

Knights of Labor, Order of the (*see* Order of the Knights of Labor)

L

Labor, definition of, 10, 492
  demand for (*see* Demand for labor)
  disputes (*see* Labor disputes, adjustment of)
  efficiency (*see* Efficiency, of labor)
  elasticity of demand for, 372, 375, 376, 383, 419, 421, 446, 524
  exploitation of (*see* Exploitation of labor)
  mobility of, 241, 247, 268, 270–271, 332, 349, 364, 365, 367, 398
  and politics (*see* Politics and labor)
  problem (*see* Labor problem)
  productivity of (*see* Productivity, of labor)
Labor—(*Continued*)
  share in national income, 64–66, *66*, 363, 446, 448, 454, 492–494
  substitution for by machinery (*see* Machinery, substitution for labor)
  supply of (*see* Supply of labor)
Labor disputes, adjustment of, **631–656** (*see also* Strikes)
    by compulsory arbitration, 651–654, 705
    by conciliation and mediation, 632–637
    by fact-finding, 626–630, 648–651
    by government seizure, 643–644, 647–648, 654, 656, 713
    on railroads, 619, 622–626, 644, 648, 650, 651
    by state and municipal adjustment machinery, 638–641, 650–656
    under Taft-Hartley Act, 635–637, 640, 648–650, 695
    by U. S. Conciliation Service, 631–637
    in World War I, 641–643
    in World War II, 641, 643–648
Labor economics, definition of, 12
Labor force, **57–62**, 241 ff.
  children in, 545
  composition of, by sex, *59*
  definition of, 57
  employment status, classification of, 354, *355*
  growth of, *59*, 258
  Negroes in, 60
  occupational distribution, *61*, *539*
  older persons in, 60, 259, 552
  union membership, extent of, 62, *63*, 508, 517
  and World War II, 251, 271, 514
Labor-Management Act of 1947 (*see* Taft-Hartley Act)
Labor market, freedom of, 504
  nature of, 262, 264 ff., 269
  and wage determination, 296–298
Labor movement, history of, **17–56**
    American Federation of Labor, development of, 27, 28–30, 39–40, 46
    beginnings to national organization, 22–26
    Communists, role of, 47–52
    Congress of Industrial Organizations, development of, 42–46
    effect of environment on, 18–22
    Knights of Labor, 26–30
    New Deal era, 42

Labor movement, history of—(*Continued*)
  rival unionism, 52–56
  World War I to Depression, 37–42
Labor problem, aspects of, 4–10
  definition of, 3, 10–11, 240
Labor-saving invention (*see* Invention, labor-saving; *see also* Machinery, substitution for labor)
Labor unions (*see* Unions)
Ladies Garment Workers' Union, International (*see* International Ladies Garment Workers' Union)
Law of diminishing returns, 277–280
Law of proportions, 277–280
Law of scale, 280–282
Layoffs, union control of, 150, 151, 154 ff., 432
Lea Act, 679
Legislation (*See* individual acts)
Lewis, John L., 40, 42, 47, 53, 79, 81, 82, 108, 117, 417, 541, 648
  and Communists, 48–49
  and organization of CIO, 42 ff.
Liquidity preference, 382, 383, 420–421, 422
"Little Steel" formula, 645
Lloyd-LaFollette Act, 715, 716, 717
Lockouts, 175, 606–607, 653
Locomotive Engineers, Brotherhood of (*see* Brotherhood of Locomotive Engineers)
Locomotive Firemen and Enginemen, Brotherhood of (*see* Brotherhood of Locomotive Firemen and Enginemen)
Longshoremen's Association, International (*see* International Longshoremen's Association)
Longshoremen's and Warehousemen's Union, International (*see* International Longshoremen's and Warehousemen's Union)

M

Machinery, substitution for labor, 127, 143, 144, 147, 148, 154, 171, 178, 182, **459–477** (*see also* Invention; Productivity; Research; Technological change; Technological unemployment)
    in business cycle, 401–404, 432
    in economy, 363–366, 498–499
    and employment, 363–366, 498–499
    factors affecting rate of, 460, **469–477**
    in firm, **459–477**
Machinery, substitution for labor—(*Continued*)
    and hours, reduction in, 511, 527
    in an industry, 364
    and marginal productivity theory, 459, 461
    and minimum wage, 341, 469–470
    and union rules, 168 ff., 304, 307, 314, 362, 432–433, 488–489
    and wage increases, 314, 372, 374 ff., 385 ff., 440, 459–479
Machinists, International Association of (*see* International Association of Machinists)
Madden, J. Warren, 669
Mailers' Union, International (*see* International Mailers' Union)
"Maintenance of membership" agreements, 142, 143, 146, 644, 645
Make-work rules, 163–168, 302, 306, 679, 705, 706
  under Taft-Hartley Act, 167, 689
Managerial prerogatives, 205 ff.
Marginal efficiency of capital, 399, 419, 426, 449–451
  definition, 405n, 417
Marginal productivity theory, 274, **277–299**, 322, 324, 336
  calculations, *283*, *284*, 284–286
  and demand for labor, 274, 282, **283–292**, 296–298
  and employment, 358, 370, 371, 377
  and individual remuneration, 300–302
  and law of proportions, 277–280
  and law of scale, 280–282
  and monopolistic competition, 284, 285, 289–290
  and pure competition, 283, 286–289
  and substitution of machinery for labor, 459, 461
  and union rules, 299 ff., 307
Marginal propensity to consume, 378, 417, 430, 498, 499–501
  and multiplier, 423
Marginal revenue product, 317, 320, 336, 373
  calculation, *283*, *284*, 284–286
  definition, 321–323
Marine Cooks' and Stewards' Association of the Pacific Coast, 94
Marine Firemen, Oilers, Watertenders and Wipers Association, Pacific Coast, 92
Maritime Union, National (*see* National Maritime Union)
Marx, Karl, 29, 507
  and exploitation, **318–320**

- Meat Cutters and Butcher Workmen, Amalgamated (*see* Amalgamated Meat Cutters and Butcher Workmen)
- Mediation, 631, 643, 652
  - definition of, 31n, 615–616
  - on railroads, 617, 624, 628
  - by U. S. Conciliation Service, 631–637
- Mine, Mill and Smelter Workers, International Union of (*see* International Union of Mine, Mill and Smelter Workers)
- Mine Workers, United (*see* United Mine Workers)
- Minimum wage, **340–347**, 724
  - and employment, 337 ff., 342–343, 345, 361
  - and exploitation, 317, 337, 339
  - and Fair Labor Standards Act, 341 ff., 345, 538
    - 1949 amendments to, 341, 544
  - and machinery, substitution for labor, 341, 469–470
  - and monopsony, 373
  - and National Industrial Recovery Act, 536
  - and North-South wage differential, 195 ff., 343–347
  - for pilots, 537, 725
  - and Supreme Court, 534, 535
- Mobility of labor (*see* Labor, mobility of)
- Molders and Foundry Workers Union, International (*see* International Molders and Foundry Workers Union)
- Molly Maguires, 26
- Monopolistic competition, 265, 438
  - and demand for labor, *284*, 289–290
  - and exploitation, 320, 326–328, 335
  - and marginal productivity theory, 284, 285, 289
  - and wage increases, 326–328, 371
- Monopsony, and demand for labor, 290–292, 461
  - and discrimination, 331–340
  - equilibrium in, 290–292
  - and exploitation, 328, 331, 334n, 339–340, 373
  - and minimum wage, 373
  - and unions, 339–340
- Multiplier, definition of, 423
  - and unions, 422–423
- Multi-unit collective bargaining, 106, 183, **208–219**
  - appropriate bargaining unit, 668
  - extent of, 211–213
  - reasons for, 215–219
- Multi-unit collective bargaining—(*Continued*)
  - and strikes, 218
  - types of, 208–211
- Murray, Philip, 44, 45 ff., 49, 55, 108, 117, 182, 307
- Musicians, American Federation of (*see* American Federation of Musicians)

N

- National Association of Manufacturers, 35, 41, 144
- National Civic Federation, 35 ff.
- National collective bargaining, 106 ff., 109, 209, 323, 624
- National Federation of Rural Letter Carriers, 92
- National income, definition of, 64, 492
  - distributive shares, *66*
  - labor's share in, **64–66**, *66*, 363, 446, 448, 454, 492–494
- National Industrial Recovery Act, 42, 204, 410, 430
  - and maximum hours, 513, 528–530
  - and minimum wage, 536
  - and protection of right to organize, 42, 659, 724
- National Labor Board, 659
- National Labor Relations Act (*see* Wagner Act)
- National Labor Relations Board, 96, 104, 138, 145, 615, 616, 649, 684
  - and bargaining unit, 217, 659
    - under Taft-Hartley Act, 693
    - under Wagner Act, **667–670**, 675, 677
  - and craft-industrial problems, 669–670
  - elections by, under Taft-Hartley Act, 686, 690, 692, 697
    - under Wagner Act, 666–670, 674–675, 692
  - and foremen, 667, 670–672
  - and state labor relations boards, 32, 701–702
  - under Taft-Hartley Act, 681, 688, 689, 705
  - under Wagner Act, 661 ff.
- National Labor Union, 26
- National Maritime Union, 50, 80, 82, 153
- National (Railway) Mediation Board, 217
- National Recovery Administration (*see* National Industrial Recovery Act)

- National Rural Letter Carriers' Association, 92
- National Trades Union, 24, 25
- National War Labor Board
  - in World War I, 38, 641, 647, 658
  - in World War II, 46, 124, 142, 192, 644, 647
    - and wage stabilization, 193, 645, 646
- National Window Glass Workers Union, 169, 172
- Negroes, 7, 270, 360, 362
  - discrimination against, 360
    - effect of Taft-Hartley Act on, 693–694
    - by unions, 91 ff., 106, 149, 612–613, 676
    - in wage rates, 196, 343, 618
  - and fair employment practices legislation, 710–711
  - in labor force, 60
  - and seniority rules, 159, 676
- Newlands Act, 617
- Newspaper Guild, American (*see* American Newspaper Guild)
- Non-competing groups, 262 ff.
- Non-union competition, 172, 182, 202, 474, 481, 485
- Norris-LaGuardia Anti-Injunction Act, 42, 604, 608, **609–611**, 617, 658, 660
  - conflict with Wagner Act, 673–674, 688, 725
  - and government seizure, 648, 713
  - and injunctions, 9, 34, 609, 706
  - and Taft-Hartley Act, 604, 688, 725
  - and yellow-dog contracts, 9, 42, 609
- North-South wage differential, 195 ff., 336, 337, 343 ff., 645

O

- Office and Professional Workers of America, United (*see* United Office and Professional Workers of America)
- Oil Workers' International Union, 162
- Old age assistance, 548, **563–564**
- Old Age and Survivors Insurance, 547, 548, 551, **553–562**
  - analysis of program, 557–562
  - benefit amounts, 554, 557, 560, *561*
  - coverage, 555, 557, 558
  - eligibility requirements, 555, 559
  - financing, 556, 561–562
  - types of benefits, 553–554
- Oligopoly, demand curve under, **328 ff.**, **372 ff.**
- Oligopoly—(*Continued*)
  - and exploitation, 328 ff., *329*, 335, 337
  - and wage increases, 329 ff., 372 ff., 386
- Open shop, 35, 39, 144, 642
- Order of the Knights of Labor, 26 ff., 46, 96, 512
- Order of Railroad Telegraphers, 92
- Order of Railway Conductors, 30, 91, 92, 222
- Output, union control of, 163 ff., 340, 481
- Overtime-on-overtime, and Fair Labor Standards Act, 543–544

P

- Packinghouse Workers, United (*see* United Packinghouse Workers)
- Painters, Brotherhood of (*see* Brotherhood of Painters)
- Pension plans, 134, 726–728
- Personnel administration, 39, **119–132**, 207
  - and grievance machinery, 131, 139
  - and industrial relations department, *125*
  - and job analysis, 127–128
  - and negotiations with union, 137
  - and scientific management, 120–122
  - and selection of workers, 126–127
- Petrillo, James C., 81, 89, 166, 679
- Philadelphia Cordwainer's Case, 8, 23, 598
- Photo-Engravers' Union, International (*see* International Photo-Engravers' Union)
- Picketing, **608–614**
  - as free speech, 10, 608, 613, 683, 705
  - legality of, 608, 613–614
  - under state acts, 655, 704–706, 709
  - and Supreme Court, 613–614, 705
  - under Taft-Hartley Act, 688
- Piece pay, 164, 179 ff., 313, 323
  - effect on efficiency, 480, 484
  - on railroads, 618
- Pilots, minimum wage of, 537, 725
- Plumb Plan, 38
- Political Action Committee (CIO), 54, 630
- Political Education League (AFL), 54
- Politics and labor, 231, 234, 653, 691
  - and AFL, 31, 54–56
  - and CIO, 53–56
  - and Gompers, Samuel, 31, 33, 38, 53, 54, 55

- Politics and labor—(*Continued*)
  - and Political Action Committee, 54
  - and Political Education League, 54
  - and railroad unions, 54
- Portal-to-Portal Act of 1947, 542, 724
  - and Fair Labor Standards Act, 541–543
  - and hours of work, 541–543
- Powderly, Terence V., 26, 27
- Preferential shop, 142
- Prices, of capital goods, 385–389
  - leadership in, 192
  - reduction in, as means of distributing gains of productivity, 495, 497 ff.
- Printing Pressmen's and Assistants' Union, International (*see* International Printing Pressmen's and Assistants' Union)
- Productivity, changes of, in business cycle, 427–430
    - in economy, 497–498
    - and employment, 496–505
    - in firm, 496–497
    - and union wage policy, 502–505
  - distribution of gains of, **491–505**
  - of labor, 69, 70, 336, 511
  - statistics of, *70*, 71, 494, 497, 501, 502, 503
- Profits, sharing of, 13, 132
- Progressive Party, 50, 55, 56
- Propensity to consume, 378, 401, 422, 425
- Proportions, law of, 277–280
- Public Workers, United (*see* United Public Workers)
- Pullman strike, 28, 32, 599, 617
- Pure competition, and demand for labor, 284–289
  - and exploitation, 320, 330, 335
  - and marginal productivity, *283*, 284–289

Q

- Quill, Michael, 50

R

- Racial discrimination, 196, 270 (*see also* Negroes)
  - in unions, 91, 106, 149, 676, 693–694, 702, 710
- Railroad Brotherhoods, Big Four (*see* Big Four Railroad Brotherhoods)
- Railroad Labor Board, 618–619
- Railroad Shop Crafts, Brotherhood of (*see* Brotherhood of Railroad Shop Crafts)
- Railroad Telegraphers, Order of (*see* Order of Railroad Telegraphers)
- Railroad Trainmen, Brotherhood of (*see* Brotherhood of Railroad Trainmen)
- Railroad Workers, American Federation of (*see* American Federation of Railroad Workers)
- Railroads, collective bargaining on, 30 ff., 110, 209, **615–631**
    - arbitration, 619, 625–626, 630
    - bargaining unit and representation, 217, 619, 620, 622
    - emergency boards, 626–630
    - mediation, 617, 624, 626
    - union security, 142, 618, 621
    - yellow-dog contracts, 617
  - legislation, Adamson Act, 37, 513, 617
    - development of, 32 ff., **616–622**
    - Erdman Act, 32, 33, 603, 617, 625, 658
    - Esch-Cummings Law, 618
    - Railroad Labor Board, 618–619
    - Railway Labor Act of 1926, **619–621**, 625, 635, 643, 658, 676, 724
      - amendment of, in 1934, 42, 46, 143, 617, 621, 622 ff.
      - disputes procedure, 619, 622–626, 644, 648, 650, 651
      - National Mediation Board, 621, 622, 623, 625, 626
    - Transportation Act of 1920, 619, 620
- Railway Carmen, Brotherhood of (*see* Brotherhood of Railway Carmen)
- Railway Conductors, Order of (*see* Order of Railway Conductors)
- Railway Labor Executives Association, 52, 54, 213
- Railway Mail Association, 92
- Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, Brotherhood of (*see* Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes)
- Real wages, and invention, 455–456
  - and technological change, 494, 508, 509
  - trend in, 66, 494, 507, 508, 509
- Referendum, 78, 109
- Regional wage differential, 195, *196*, *197*, *198*
  - and minimum wage, 343–347
- Representation proceedings (*see* Bargaining unit)

Research, 435, **437–444**
  and union-management coöperation, 441–442
  and wage increases, effect of, 435, 437–441
Restraint of trade doctrine, 599, 601
Reuther, Walter, 50, 55, 79, 104, 107, 176
Rival unionism, 52–53, 104, 145, 608
  AFL rivalry with CIO, 43–46, 52–53, 213, 661, 674, 675, 684, 690
Roosevelt, F. D., 45 ff., 49, 54, 626, 629, 643, 659, 723
Rubber Workers, United (*see* United Rubber Workers)
Rural Letter Carriers, National Federation of (*see* National Federation of Rural Letter Carriers)
Rural Letter Carriers' Association, National (*see* National Rural Letter Carriers' Association)
Ryan, Joseph, 83, 109, 152n

S

Scale, law of, 280–282
Schwellenbach, Lewis, 634, 635
Scientific management, 120–122
Seafarers International Union, 92, 153
Seniority, **155–160**, **303–306**
  effect of, 156–159
  nature and extent of, 154–155
  and Negroes, 159, 676
  and wage determination, 303–306
Sheet Metal Workers' International Association, 92
Sherman Anti-Trust Law, 34, 591, 601
  application of, to labor, 599, 611–612
Shop steward, 76, 139, 481
Shorter hours (*see* Hours of work, reduction in)
Sitdown strikes, 45
Social security, nature of, 547 ff., *550*
Social Security Act, 224, **547–577**, 724, 727
  blind, aid to, 588
  children, aid to, 564–565
  old age assistance, 548, **563–564**
  Old Age and Survivors Insurance, 547, 548, 551, **553–562**
  unemployment compensation, **567–577**
Socialist Trade and Labor Alliance, 30
Southern wage differential (*see* North-South wage differential; Regional wage differential)
Stabilization Act, 644
States, employees of, collective bargaining by, 718, 720–721
    strikes by, 715, 721
States—(*Continued*)
  fair employment practice legislation, 710–711
  labor disputes procedure, 650 ff.
    arbitration, 651–654, 705
    cooling-off periods, 650–651
    government seizure, 654–656
    picketing, regulation of, 655, 704–706, 709
  abor relations acts, 701–711
  restrictive and anti-union legislation, 709–710
Steelman, John, 632
Steelworkers, United (*see* United Steelworkers)
Strasser, Adolph, 28
Street, Electric Railway and Motor Coach Employees, Amalgamated Association of (*see* Amalgamated Association of Street, Electric Railway and Motor Coach Employees)
Strikes (*see also* Labor disputes, adjustment of)
  frequency of, 38, 174–175, 641, 643, 647, 648, 652, 694
  by government employees, 695, 713, 714–716, 721
  jurisdictional, 605, 611, 688, 689, 695, 705, 709
  legality of, 604–606
    for closed shop, 8, 598, 606
  and multi-unit bargaining, 218
  national emergency, 713, 724
    under Taft-Hartley Act, **648–650**, 695, 696
  settlement of (*see* Labor disputes, adjustment of)
  sitdown, 709
  under state acts, 650–656, 704–706, 708, 710
  under Taft-Hartley Act, 687–689, 695
  under Wagner Act, 623, 674–675, 677–678, 679, 680, 694
  in and after World War I, 38, 641, 643
  in and after World War II, 641, 643–648, 652
Supply curve of labor, 243, 324 ff., 333, 335, 337, 338, 339
  to economy, 248 ff.
  to firm, 244 ff., 324 ff., 373 ff.
  to industry, 247 ff.
  to locality, 248
Supply of labor, **239–271**
  characteristics of, 241, 242
  curve of (*see* Supply curve of labor)
  to economy, 240, 248 ff., *250*

- Supply of labor—(*Continued*)
  - and efficiency of labor, 242, 256 ff.
  - elasticity of, 247, 249, 334, 421, 422
  - to firm, 240, 244–247, 324, 333 ff.
  - and hours of work, 242, **252–256**
  - to industry, 240, 247–248
  - long-run, 257–260
  - mobility of labor, 241, 247, 268, 270–271, 332, 349, 364, 365, 367, 398
  - short-run, 243, 249
  - variations in, 242–244, 251
- Supreme Court of United States, 541, 542, 543, 544, 601, 602, 603, 611, 612, 617, 620, 648, 652, 665, 676, 691, 702, 713
  - and maximum hours, 515
  - and minimum wage, 534, 535
  - and picketing, 613–614, 705

T

- Taft-Hartley Act, 9, 31, 47, 85, 101, 146, 263, 629, 631, 660, 672, 677, **679–699**, 708, 709, 711, 724
  - appraisal of, 696–699
  - and bargaining unit, 693
  - and boycotts, 693
  - and closed shop, 143, 680, 686, 696
  - and Communist affidavit, 50, 689–691, 696
  - and cooling-off periods, 649, 695–696, 698
  - and featherbedding, 167, 689
  - and foremen, 682
  - and injunctions, 648–650, 689
  - and labor disputes, 647, 648–650, 687–689, 694–695, 698
    - jurisdictional, 688, 689
    - mediation of, 636, 640
    - national emergency, 648–650, 695, 696
  - and Norris-LaGuardia Act, 604, 688, 725
  - reaction of labor to, 54, 698–699
  - reports and financial accounts, 89, 691
  - unfair labor practices, by employers, 681, 682–683
    - by unions, 685–689
  - union shops, 680, 686, 696, 697
  - union welfare funds, 224, 691–692
  - United States Conciliation Service, 631, 635–637
- Teamsters, Chauffeurs, Warehousemen and Helpers, International Brotherhood of (*see* International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers)
- Technological change (*see also* Invention; Machinery, substitution for labor; Productivity; Research)
  - and business cycle, 399, 404, 432–433
  - and dismissal wage, 307–309, 432, 465, 488
  - and efficiency of labor, 429–430
  - and employment, 349, 358, 361 ff.
  - and hours, reduction in, 511, 522
  - and price reductions, 497 ff.
  - and real wages, 494, 508, 509
  - strikes against, 605
  - union control of, 168 ff., 304, 362, 432–433, 436, 488–489
  - and wage increases (*see* Machinery, substitution for labor)
- Technological unemployment, 6, 161, 227, 355, 361–366, 432, 457, 458
- Telegraphers Union, Commercial (*see* Commercial Telegraphers Union)
- Textile Workers Union, United (*see* United Textile Workers Union)
- Textile Workers Union of America, 102, 172, 185, 441, 442, 474, 486
- Time pay, 179, 313
  - and efficiency, 481
- Tobacco Workers International Union, 78
- Tobin, Daniel, 41, 83
- Tobin, Maurice J., 637
- Train Dispatchers, American Association of (*see* American Association of Train Dispatchers)
- Transport Workers Union, 50, 30
- Truman, Harry S., 55, 635, 679, 699
- Truman Health Bill, **589–593**
- Typographical Union, International (*see* International Typographical Union)

U

- Underconsumption theory of cycle, 391–394, 411
- Unemployment, **349–368** (*see also* Employment)
  - definition of, 57, 64, 351–354
  - and hours, reduction of, 349, 513, 522 ff.
  - insurance (*see* Unemployment insurance)
  - and minimum wage, 337 ff., 342 ff., 345
  - statistics of, 62–64
  - types of, 355–368
    - casual, 366
    - cyclical, 58, 355, 359–361

Unemployment—(*Continued*)
  types of
    frictional, 367, 458
    long-run, 377
    seasonal, 357
    secular, 358–359
    short-run, 377
    technological, 6, 161, 227, 355, 361–366, 432, 457, 458
  and wage increases, 315, 327, 337
Unemployment insurance, **567–577**
  benefits, 571–572, 576
  coverage, 568–569, 574–575
  eligibility, 569–571, 575
  evaluation of, 573–577
  experience rating, 572–573
  financing, 567, 572–573, 576–577
Unfair labor practices, by employers, under state acts, 703–704
    under Taft-Hartley Act, 681, 682–683
    under Wagner Act, 662–665, 671
  by unions, under state acts, 704–708
    under Taft-Hartley Act, 685–689
    under Wagner Act, 676
Union control, of entrance to trade, 146–149
  of hiring, 150–154
  of layoffs, 150, 151, 154 ff., 432
  of output, 163 ff., 340, 481
  of technological change, 168 ff., 304, 362, 432–433, 436, 488–489
Union label, 215, 232–233
Union-management cöoperation, **172–174**
  and efficiency of industry, 474, 488
  and research, 441–442
Union organization, conditions of, 18 ff.
  depression, effect of, on, 20, 25
  extent of, 46, 62, *63*, 299, 508, 517, 677, 719
  and hours, reduction in, 516–518
  protection of right to organize, development of, 17 ff., 603, 642, 658–659
    under New Deal, 42, 659, 724
    on railroads, 617–618, 620, 658
    under Wagner Act, 660–661
  and yellow-dog contracts, 602, 603
Union rules, and business cycle, 430 ff., 432 ff.
  and efficiency, 157, **479–490**
  and invention, 436–437
  make-work, 163–168, 302, 306, 679, 689, 705, 706
  and technological change, 168 ff., 304, 362, 432–433, 436, 443, 488–489
  types of, 302 ff.
Union rules—(*Continued*)
  and wage determination, **299–315**
  and wage increases, 306, 308, 314
Union shop, 142–146
  under state acts, 703, 710
  under Taft-Hartley Act, 680, 686, 697
  under Wagner Act, 675
Union structure and government, **73–117**
  admission policies, 90–97
  of AFL, 115–116
  of CIO, 116–117
  democracy in, 110–115
  determinants of, 101–106
  finances, 86–90
  judicial procedure, 98–101
  local union, 73–77, 102
  locus of union control, 106–110
  national union and officers, 77–86
  referendum, 78, 109
Union wage policy and adjustments, and business cycle, 392–394, 397 398, 405, 408–409, 413–427
  and efficiency, 474, 479–490
  and employment, 338, 366, 373, 382–390
  and exploitation, 337 ff., 373
  and inflation, 503–505
  and interest rates, 382–385, 419–421
  and lag of wages behind prices, 393, 395, 397, 399, 403, 414–417
  nature of, 311 ff., 314, 413–414, 482
  objectives of, 185 ff.
  and productivity, changes of, 502–505
  simultaneity of wage changes, 424, 486–488
  and uniformity in wage rates, 398, 424, 482–486
  and wage reductions, 200 ff., 408–409
Unions, and business cycle, **413–433**
  closed, 606
  company (*see* Company unions)
  and exploitation, **337–340**
  and monopsony, 339–340
  and multiplier, 422–423
  and politics (*see* Politics and labor)
  and racial discrimination, 91, 612–613, 676, 693–694, 702, 710–711
  scope of activity by, 233 ff., 725–726
  types of, 230 ff.
  welfare programs of, **221–229**
United Association of Journeymen Plumbers and Steamfitters, 91, 92, 93, 149
United Automobile Workers, 45, 50, 55, 73 ff., 86, 88, 91, 94, 102, 104, 106, 176, 181, 190, 201, 208, 607, 690

- United Brotherhood of Carpenters and Joiners, 82, 83, 165
- United Electrical, Radio and Machine Workers, 34, 51n, 74, 79, 80, 99, 181, 208, 213, 690
- United Farm Equipment and Metal Workers, 50, 690
- United Garment Workers, 215, 233
- United Hatters, Cap and Millinery Workers, 188
- United Mine Workers, 34, 40, 50, 55, 77 ff., 90n, 102, 106, 108, 109, 117, 146, 173, 182, 185, 189, 191, 199, 200, 202, 209, 413, 417, 541, 542, 648, 690, 713, 727
  - District 50, 50, 53
- United Office and Professional Workers of America, 50n, 690
- United Packinghouse Workers, 85, 416
- United Public Workers, 716
- United Rubber Workers, 77, 82, 210
- United States Conciliation Service, 615, 624, 628, **631–637**, 638, 639, 640, 643, 695
  - effectiveness of, 632–635
  - under Taft-Hartley Act, 631, 635–637, 649
- United Steelworkers, 45, 77, 83, 85, 91, 107, 108, 111, 117, 176, 182, 190, 191, 199, 208, 210, 433, 441, 607, 646, 690, 726
- United Textile Workers Union, 441

W

- Wage differential (*see* North-South wage differential; Regional wage differential)
- Wage increases (*see also* Union wage policy and adjustments)
  - and capital, depletion of, 389
  - and capital goods, prices of, 385–389
  - in depression, 409–412
  - and efficiency, 337, 343, 486–488
  - and employment, **369–391**
    - aggregative view, 369, **377–381**, 409 ff.
  - in firm, individual, 369, 370–377
  - general, 369, 377–381, 409 ff.
  - and hours, reduction in, 524–530
  - and machinery, substitution for labor, 314, 372, 374 ff., 385 ff., 440, **459–479**
  - and minimum wage (*see* Minimum wage)
  - and monopolistic competition, 326–328, 371
- Wage increases—(*Continued*)
  - and oligopoly, 329 ff., 372 ff., 386
  - and productivity, distribution of gains of, **496–503**
  - and research, 435, 437–441
  - and union rules, 306, 308, 314
  - and union wage changes (*see* Union wage policy and adjustments)
- Wage reductions (*see also* Union wage policy and adjustments)
  - in Australia, 406
  - in depression, 403, 405–409, 412, 415, 426
  - and employment, 331, 359, 369, 379–380, 405–409
  - general, 379–380
  - and interest rates, 405 ff., 419
  - union policy toward, 200 ff., 408–409
- Wages, annual, 136, 162–163, 309 ff., 349
  - in business cycle, 391 ff.
  - determination of, 179, 239, 260 ff., 265 ff., 294 ff., 300 ff. (*see also* Marginal productivity theory)
  - dismissal (*see* Dismissal wage)
  - increase in (*see* Wage increases)
  - iron law of, 275
  - key bargains in, 191, 424
  - methods of payment of (*see* Incentive pay; Piece pay; Time pay)
  - minimum (*see* Minimum wage)
  - real (*see* Real wages)
  - reductions in (*see* Wage reductions)
  - regional differential, 195 ff., 336 ff., 343 ff., 645
  - rigidity of, 395, 399, 401, 411–412, 426
  - stabilization of, 482, 542, 645, 646
  - structure of, 190 ff., 193, 260, 263 ff., 645, 646
  - trend in, 66, 494
  - uniformity of, 482–486
  - union-non-union differential, 414 ff., 474, 481, 485
- Wages fund theory, 275–277
- Wagner Act, 9, 42, 45, 120, 232, 603, 608, 617, 622, **657–678**, 679, 684, 696, 711, 717, 723
  - analysis of act, 660–678
  - bargaining unit problems, 667–670, 674, 677
  - and closed shop, 675–677
  - conflict with Norris-LaGuardia Act, 612, **673–674**, 725
  - and foremen, 670
  - protection of right to organize, 660–661
  - representation problems under, **665–670**

Wagner Act—(*Continued*)
  and strikes, 623, 674–675, 678–679, 680, 694
  unfair labor practices under, 621, **662–665**, 671
Wallace, Henry, 50, 55
Walsh-Healy Public Contracts Act, 536–537, 541, 542
War Labor Board (*see* National War Labor Board)
War Labor Disputes Act, 644, 648, 651
Warren, Edgar, 635, 636, 637
Welfare, funds, regulation under Taft-Hartley Act, 224, 691–692
  plans, by employers, **132–137**
    by unions, **221–229**
Wilson, Woodrow, 617, 642, 643, 647
Window Glass Workers' Union, National (*see* National Window Glass Workers' Union)
Wire Weavers Protective Association, American (*see* American Wire Weavers Protective Association)
Witte, Edwin E., 638
Woll, Matthew, 41, 44n
Women, in labor force, 59, 251, 260, 354
Women—(*Continued*)
  in unions, 96
Work sharing, 154–156
  in depression, 430–432, 522–523
  effects of, 160–161
Workmen's compensation, **579–585**
  benefits, 581–582, 583
  financing, 584
World War I (*see also* National War Labor Board, in World War I)
  labor disputes, adjustment of, 641–643
  strikes, in and after, 38, 641, 643
World War II (*see also* National War Labor Board, in World War II)
  labor disputes, adjustment of, 641, 643–648
  labor force, 251, 271, 514
  strikes, in and after, 641, 643–648, 652

Y

Yellow-dog contracts, and injunctions, 8, 9, 33 ff., 42, 602
  and Norris-LaGuardia Act, 9, 42, 609
  and railroads, 32, 617
  and union organization, 602, 603

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